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ABSTRACT

As of November 1996, at least 25 states had passed charter-school legislation empowering agencies of state government to enter into agreements with private individuals and groups to operate public schools. This is a guidebook for government agencies given the power to permit individuals and groups to operate autonomous public schools under state "charter school" legislation. It is intended to help chartering agencies develop their own charter school programs by providing information on: (1) charter-school concept and the different types of charter statutes; (2) the capabilities required of charter applicants to develop and implement their school programs; (3) the types of applicants that agencies are likely to encounter, as well as other private-sector actors involved with charter schools; (4) the specific functions and capabilities of chartering agencies; and (5) advice for chartering agencies initiating a charter-school program. Nine figures and one table are included. (LMI)

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Institute on Education and Training
UW/RAND Program on Reinventing Public Education

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Preface

This is a guidebook for government agencies given the power to permit private individuals and groups to operate autonomous public schools under state "charter school" legislation. It is intended to help chartering agencies develop their own charter school programs by providing basic information on:

- The charter school concept and the different types of charter statutes.
- The capabilities required of charter applicants to develop and implement their school programs.
- The types of applicants agencies are like to encounter, as well as other private sector actors involved with charter schools.
- The specific functions and capabilities of chartering agencies.
- Advice for chartering agencies initiating a charter school program.

This guide is an introduction to charter schools, not a prescription for a charter school program. Charter school laws vary by state. Local circumstances vary by jurisdiction and chartering agency. Chartering agencies should consider the ideas laid out here and adapt them to their own needs and philosophies of management.

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Summary

The guidebook is designed to help agencies develop their own charter school programs by providing general information on the charter school concept and its implementation. It is meant to be one of the first documents chartering agencies examine before they decide whether to implement a charter school program. Chartering agencies should consider the ideas discussed here and adapt them to their own needs and philosophies of management.

The Charter School Concept

At least twenty five states have passed "charter school" legislation empowering agencies of state government charged with public education to enter into agreements with private individuals and groups to operate public schools. The fundamental framework of the charter arrangement is simple. The charter holder has a right to implement the school program approved in the charter for some number of years. The chartering agency may revoke the charter and close the school if the charter holder fails to perform.

The agencies with chartering authority vary by state, but include state and local boards of education, special state agencies established solely to implement charter legislation, state universities and community colleges. The statutes may allow these agencies to convert existing public schools to charter status or create entirely new public schools. Like other public schools, charter schools may not teach religion or charge tuition, and must respect the right of students enrolled in their schools to constitutional protections such as due process. The duration of a charter may be as long as fifteen years, although most run between 3 and 5 years.

As with vouchers proposals, most charter laws introduce the public school system to a competition for the tax revenues devoted to public education. Charter schools are generally financed by moneys that would otherwise flow to traditional public schools. As schools of choice, charter schools must attract enough parents and students to be financially viable. But charter schools are not publicly-financed private schools responsive only to the market. The boards of trustees of charter schools are public agents approved by the agency granting the charter. Charter holders are directly responsible to agencies of state government to meet certain student performance requirements; maintain financial viability;

protect the rights of students, parents and employees; and carry out the educational responsibilities of state government.

Consistent with state efforts to improve accountability for performance, charter schools must meet educational standards established in the charter school statute, other provisions of the state education code, or the schools' charters. In many cases, they are also required to meet approved standards of financial management and comply with processes applicable to government decision making, such as open meetings acts. Should charter holders fail to meet their agreements, chartering agencies may revoke their charters and close their schools. But charter schools are also given control over key decisions necessary to assure the success of the programs they propose.

As under site-based management, decisions at charter schools are made by people with a stake in the success of their particular school, but chartering agencies are bound by their agreement to let charter holders implement their program. Absent gross negligence, incipient financial collapse, obvious failure of the educational program, or a serious violation of law, charter school operators have a legal right to manage their school free of outside interference for the term of their charter. And in addition to allowing existing public schools to convert to charter status, the statutes often permit private individuals and organizations to establish entirely new public schools.

Charter School Statutes

No one knows the best mix of autonomy and accountability most likely to create public schools that will improve educational performance for large numbers of students. Charter school legislation is based on the proposition that at a minimum, individual schools must: 1) have a right to control some decisions important to the success of their educational program; 2) be responsible to government authorities for educational performance and for carrying out a constitutional trust financed with tax dollars; and 3) be responsible to market and competition.

In some states autonomy is confined to the school's educational program. In these cases, which include states that only permit conversions of existing public schools, the statutes give teachers and parents at the school the legal right to implement a curriculum and instructional strategy approved by the local school board for the term of the charter. In so doing, these charter laws create a sort of "super site-based management." Personnel policy, budgets, and other matters of school management remain under the school district's control. In these cases,

charter schools are accountable for their educational performance. If the program fails to improve student outcomes as specified in the charter, the school board may terminate the contract. If the program fails to perform as advertised to parents, the school may close for lack of adequate enrollment.

In most states, including those that permit the creation of new public schools, charter school autonomy can extend to business decisions, such as the right to hire and fire, contract for goods and services, and lease or purchase real property. In many instances, the chartering agency will negotiate the actual scope of autonomy with the charter applicant. These "contract schools" are accountable for their performance as economic entities as well as for student outcomes. The chartering agency may terminate the charter of a school that fails to maintain financial records consistent with generally accepted accounting procedures, and the school will go out of business if it cannot balance revenues and expenses.

In a few states, particularly those that permit agencies other than local school boards to grant charters, charter schools are essentially independent government agencies. Here the statutes give charter schools the right to implement their approved educational program, control over all economic decisions, and the powers of a government entity. These "independent public schools" are accountable for their educational and economic performance, and their adherence to standards guiding government decision making processes. Chartering agencies may terminate their charters for a failure to conform with government procurement or "open meetings" laws. Schools that violate the laws governing public agencies must bear the costs of defending themselves and could find themselves bankrupted by lawsuits.

Capabilities Required of Charter Holders

Whatever the scope of autonomy offered by a state's charter school statute, the legislation generally requires that those holding charters exercise their autonomy responsibly and that those seeking charters demonstrate their capacity to do so. Depending on the degree of autonomy offered by the statute, charter applicants must explain their educational program and means of assessing student learning, provide a multi-year business plan, and describe their governance structure. Once they have received their charter, charter school operators must conform to state educational standards and tests, permit audits of their financial records by appropriate state agencies, and comply with various state laws governing the operation of government agencies.

The Ability to Conceive and Manage an Educational Program

Charter schools have the attributes of several different types of institutions but, at their core, they are educational programs. The charter approval and oversight process requires applicants to satisfy chartering agencies of the quality of their school's educational offering. Where charter holders control budgets, the charter school funding mechanism of per pupil payments demands that the applicant develop an educational program sufficiently attractive to parents and students for the school to be financially viable.

Establishing a new school is a demanding task. Applicants must explain and align the proposed school's mission and goals, student body, curriculum, calendar, assessments, and staff in their proposal. They must assess student and school performance in ways that meet or exceed state requirements and/or in ways that measure achievement under their proposed curriculum. They also must be able to hire and develop a staff qualified to deliver the proposed educational program. Once the school is up and running, applicants will have to administer a school building - schedule classes, assign students, handle children and parents, set calendars, deal with problems of student transportation and food service, and the hundreds of other issues unique to schools.

Charter school applicants must propose an educational vision, curriculum, and instructional approach that will satisfy both the market and government. Chartering agencies must find the proposed educational program credible to educators, attractive to parents and students, and economically sound. To receive a charter, applicants will have to convince the chartering agency that they are capable of operating an autonomous public school.

The Ability to Start and Run a Medium-Sized Business

In most cases, statutes give charter holders a broad set of powers necessary to control their fate as independent economic entities. A charter school may receive and disburse funds, and solicit and accept gifts and grants for school purposes. It may make contracts and leases for the procurement of services, equipment and supplies. It is permitted to incur temporary debt in anticipation of the receipt of funds. Beyond these specific powers, statutes also often give charter schools all powers necessary or desirable for carrying out its charter program.

The responsible exercise of this economic autonomy requires substantial business expertise. Potential charter school operators generally must demonstrate their business capacity by describing a business or financial plan for the charter school in their application.

Financial planning is a complex and iterative process. Applicants must consider important relationships among the charter school's educational program, student enrollment, revenues, building, special education needs, and staff. The educational program should be designed with a potential student market in mind, including a particular type of student (i.e., at risk, mainstream, etc.) and a particular number of students. The program and the type and number of students will generate requirements for specific educational materials and teaching qualifications, and possibly particular facilities.

Student enrollment will determine the revenues generated by the school. Those revenues must be sufficient to pay for the building space chosen as the school's location (including any renovations that may be needed to make the space suitable for use as a school, as well furniture and equipment), and to pay the staff necessary to carry out the chosen educational program and operate the charter school. The building should be located somewhere safe and convenient to attract the required enrollment and desired staff.

The building, the staff, and the educational program will have to accommodate students with special education needs. Some - but by no means all - of the additional costs of these students will be offset by additional revenues received for special needs, so the school's general revenues must be sufficient to accommodate special education.

Before granting a charter, chartering agencies must be convinced that the financial aspects of each of these factors add up to an economically viable charter school. Moreover, they must have some confidence that after the charter is granted, the applicant will be able to execute that plan, start up the school, and manage an ongoing business operation.

The Ability to Operate Within a Complex Governance Structure

In many cases charter schools have a legal identity independent of the district in which they are located. Subject to the school's charter and the provisions of the charter statute, they are governed by a board of trustees who have the authority to decide matters related to the operation of the school. But while charter schools may be independent of local school boards in the sense that they have the right to carry out the educational program contained in their approved charter, to hire fire and manage the personnel employed by the school, to employ the financial resources available to the school, and to enter into contracts for real property, goods and services for school purposes, their autonomy is constrained by statute and their relationship with their chartering agency.

Charter statutes often require applicants to explain how they will be accountable to parents, and the proposed governance structure of the charter school, including a description and method for the appointment or election of members of the board of trustees. Once a charter school is in operation, it often will be subject to the state open meetings requirement government procurement law and myriad other regulations. Chartering agencies must assure themselves that the proposed governance structure meets the requirements of state law and can be implemented by the applicant.

The Ability to Comply With the Laws Controlling Agencies of State Government

Charter schools are typically characterized as highly flexible and autonomous institutions, operating free from government regulation. In most cases, it is more accurate to say that charter schools are free to determine how they will comply with a wide variety of state and federal laws. As a general principle, charter school s are required to comply with all Federal and state laws, rules and regulations pertaining to public schools, except where compliance is waived in the act or at the discretion of another state education agency. Charter schools are often subject to considerable portions of the state education code, including teacher certification, special education, the rules governing the applications process, admissions, facilities, and charter school governance, the prohibition on sectarian operations, charter school liability and immunity, student transportation, audits, civil rights, and employees. Chartering agencies should require that applicants are familiar with these laws and demonstrate a capacity to satisfy compliance requirements in a broad range of situations.

The Capacity of Likely Applicants

Depending on the statute charter applicants may include higher education and community service institutions, national and local private businesses engaged in education, grassroots groups of educators, parents and activist citizens, and existing public and private schools seeking conversion to charter status. The groups will differ in motivation, the size and locations schools of the schools they propose, and in the types of students they hope to serve.

Both market forces and the accountability to government agencies demanded in return for the autonomy offered by charter school laws may require that charter operators possess the widest range of capabilities. They need expertise in educational programs and school administration - including special education,

business management, and government operations. They must have the administrative capacity to weave this expertise into a viable proposal, and later a well-run school. In many cases they will require access to facilities. They must have some financial backing to hire staff, buy equipment and purchase educational materials before they open their doors, and to lease or purchase and then renovate real estate. They need strong relationships with community institutions, including local banks, newspapers, and government. They need the community's good will.

The Functions of Chartering Agencies

To fulfill the purpose of the charter act and assure the success of their own programs, agencies first need to provide public notice of their intent to implement the charter school statute. They then must review applications and approve charters. After approval, they need to monitor the operations of charter holders. In the course of establishing the first charter schools, agencies should consider providing both technical assistance to applicants and contract services to charter operators. Once schools are up and running the charter agency will have to work with other agencies and the private sector to create a supportive operating environment. Where charter holders cannot meet performance requirements, chartering agencies have the responsibility to terminate their charters.

Inform the Public

Because the statutes generally place chartering agencies under no obligation to grant charters, the first function of a chartering agency is to provide **notice of its intent** to implement a charter school program. Announcements should indicate the agency's general implementation strategy, for example to make a good faith effort to approve unsolicited charter applications, seek out partners to develop some number of new schools, or approve certain kinds of educational programs or schools for certain categories of students.

Chartering agencies should develop a formal **Request for Proposals (RFP)**. The RFP should describe the process the agency will follow in its decision making, including the chartering process and timetable, important deadlines, decision procedures, and the rights and obligations of eligible applicants. It should contain a copy of the application form and identify the criteria that will guide agency judgments.

Review Applications and Approve Charters

The chartering agency's next function is to review and approve charters. To perform this function, the agency needs to develop an approval process; chartering criteria; and the flexibility to employ the process in ways that honor the agency's public trust responsibility to children, promote the practice of due diligence by agency personnel, and are faithful to the agency's good faith decision to implement the charter statute.

The chartering **process** must permit sufficient time for the agency to conduct a thorough investigation of applications and applicants, for applicants to make any appeals offered by state law, and for those granted charters to open their doors to students in time for the upcoming school year. In many cases a basic timetable will be mandated by the charter statute.

Formal hearings on charter applications, including presentations by the applicant, are often required by law. Agencies must allow applicants to present themselves to the public, permit public comment on the application, and provide a public record of their chartering decision making.

Chartering **criteria** are stated or implied by the statute and informed by professional knowledge of the substantive area in question. Information the statute requires applicants to provide in their application and the scope of autonomy offered to charter holders in the charter law serve as bases for the determination of criteria. The scope of autonomy offered by the statute implies substantive criteria for charter approval.

The agency's **flexibility** in carrying out the review and approval process and applying its criteria will strongly influence its ability to implement a charter program and fulfill the agency's intent. The practice of due diligence by agency personnel involves looking for a basis to approve innovation as well as disqualifying faults.

Provide Technical Assistance to Applicants

In many cases, charter statutes permit or require chartering agencies to provide assistance to charter applicants. In an ideal world the technical assistance provided by chartering agencies to charter applicants would not go much beyond the information contained in the RFP and informal discussions with applicants. In practice, the world of charter review and approval is not ideal, particularly when the charter law has just been passed and the charter program is first implemented. Chartering agencies will sometimes be in the best position

to render substantive technical advice to potential applicants. Refusing to give advice in these areas of expertise may retard the development of charter schools.

Nevertheless, there are lines charter agencies should not cross. They should not write an applicant's proposal. The more substantive advice an agency supplies, the less confident it should be in the applicant's capacity to operate the proposed school.

Monitor Charter School Operations

Once charters have been granted, the chartering agency's responsibilities shift from the quality of an application describing a proposed school, to the implementation of the approved plan and the performance of the operational school. The nature and extent of oversight should depend on the scope of autonomy offered to charter holders by statute, reporting and inspection requirements contained in the charter law, similar requirements charter schools may be subjected to under categorical grants and special state programs, and benchmarks established in the application Agencies need sufficient information to provide warning of potential crises but must not unreasonably burden charter holders or deprive them of the discretion they need to implement their approved charter.

Charter operations are monitored by three means: written reports provided by charter holders, inspections conducted by chartering agencies, and investigations of informal and formal charges of violations of law. Chartering agencies need to create systems to manage each of these oversight mechanisms .

Reports

The broader the scope of autonomy offered to charter holders, the broader the probable array of reporting requirements established in the charter statute. Most statutes require charter holders to produce some form of annual report and to submit certain other reports on forms supplied by state agencies. Problems can arise when chartering and other education agencies with oversight responsibilities for charter schools hold charter operators to precisely the same regulations as the traditional school system managed by school districts. The regime is likely to overwhelm the small administrative staffs of charter schools.

Chartering agencies should consider three ways of addressing excessive bureaucracy in the oversight of charter holders. The first is to make use of the management information systems that charter holders must employ to control their school's operations. The second approach is for the chartering agency to

make the best use of information charter holders are already required to produce by law or circumstances, instead of adding new government reporting requirements. The third approach is to streamline existing regulation.

Inspections

Many charter statutes prohibit charter holders from interfering with inspections by chartering agencies and other government agencies whose responsibilities encompass charter schools, and give those agencies relatively unrestricted access to charter schools and their records. Inspections of physical facilities and records are a necessary component of any complete audit. Charter holders should be made aware of the purpose of the audit, the information required, the people who should be made available to the inspection team, and the length of the inspection.

Investigation of Reported Violations

As a rule, chartering agencies do not have substantial personnel resources to devote to the oversight of charter schools and rely on reports of potential problems from third parties. In some cases, charter statutes specify procedures for dealing with grievances with charter schools.

Chartering agencies need to create formal systems for reporting and investigating violations of charter law. In the event of an investigation, the agency should give charter holders notice of the complaints made against them, the status of investigations, an opportunity to address the matter, and the right to defend themselves before the agency makes any formal decision or takes action that jeopardizes the charter holders' interests or status.

Create a Supportive Operating Environment

Charter schools may be more or less autonomous, but all exist within - and to varying degrees rely upon - a larger system of public education. Regardless of the scope of their autonomy, all require that system to provide a supportive operating environment.

Where local school boards are the chartering agencies and the charter statute extends autonomy only to the implementation of an approved educational program, a charter school's success will be influenced by personnel and budget decisions made by the central office, the superintendent, and the school board. Where the charter law allows a district to expand the scope of autonomy to the economic arena, the charter school may still depend on the district for payroll services, food service, and collective bargaining. Even where the charter school

is chartered by an agency other than a school board, the school may rely on the district for transportation services, and will have important relationships with a range of state education agencies in addition to the chartering agency.

Having chartered a school, chartering agencies have an obligation to make their best efforts to see it succeed. Where they control aspects of the charter school's operating environment that are essential to its ultimate success, chartering agencies should act in good faith to support the school. Where charter schools are more independent of school districts, but subject to reporting requirements to state education agencies or fall within their jurisdictions, chartering agencies must be prepared to act as advocates for charter schools.

The operating environment of charter schools with control over economic and business decisions includes the private sector, and particularly private lenders. Charter agencies should be prepared to grant contingent charters, subject to the holder obtaining an appropriate facility, to help otherwise qualified applicants obtain the financing they need to purchase and/or renovate a school building.

Provide Contractual Services to Charter Holders

By mutual agreement of the parties or as required by the charter law, chartering agencies may also provides services to charter holders. Where charter schools are not required to contract with chartering agencies for services, they will quickly learn whether they are receiving value for money and seek alternatives as soon as they are able. But even where the agency receives a fee determined by the charter statute, for example as a portion of the charter school payment retained for oversight or rent, its good faith promise to support a charter schools success should dictate that the agency give the best service possible.

Terminate and Renew Charters

Where charter holders are unable to make meaningful progress towards their educational goals, schools skirt insolvency, or a pattern of serious violations of law is uncovered, statutes give chartering agencies the right to terminate the charter, and close down the school or turn it over to new management. Chartering agencies also have the right not to renew charters when they expire. Where reasonable administrators of charter programs would agree that a school is a failure, charters should be terminated or not renewed for the good of students, to protect the taxpayers, and to send a signal to other operators.

In an ideal world the threat of termination or nonrenewal should be an effective deterrent to poor management. In the real world, they are difficult threats to carry out. Chartering agencies need oversight systems that establish clear warning to charter holders of a need to address specific problems before they grow to threaten the viability of the school or rob it of vitality .

At least during the early implementation of charter school programs, agencies should also provide direct assistance to problem schools. This approach is consistent with the fact that at this stage charter programs are experiments. As the agency becomes more experienced and charter schools more numerous, it should be able to keep unqualified applicants out of the charter school program and rely more on intermediate sanctions, but direct assistance should never be ruled out as an option. Before a charter is terminated, chartering agencies should be able to point to a history of warnings, sanctions and assistance to address problems that ultimately led to failure.

The Capabilities Required of Chartering Agencies

Chartering agencies require substantial capabilities to carry out the functions discussed above. They need detailed knowledge of the charter statute and related state and federal law. They must have access to functional expertise to judge quality of applications and operations. They must appreciate issues related to the implementation of charter legislation in other states. Charter agencies need to establish relationships with other government agencies, technical assistance organizations (TAOs), foundations interested in the charter concept, and the banking community. And finally, they require the trust of charter applicants and charter holders.

Detailed Knowledge of the State Charter School Statute and Related State and Federal Education Law

The starting point for all chartering agency functions is the law. The members of chartering agencies must master the various provisions of their state's charter school statute. In addition, agency staff need to become familiar with important aspects of state education law relevant to charter schools and agency oversight of charter programs. Staff should understand federal education law, including legislation creating the various categorical programs and grants, and the administrative procedures governing their distribution. They should know whether charter schools are located in jurisdictions subject to desegregation orders or consent decrees. They may also need a general awareness of, and

access to specialists in, other state law, including government contracting, liability and insurance, labor relations, building and zoning codes, and private sector finance. Where charter approval and termination are subject to state statutes governing the decisions of administrative agencies, agency staff must have a firm grasp of the procedural and substantive requirements of that body of law

Functional Expertise to Judge the Quality of Charter Applications and Operations

The chartering agency's capacity to implement the charter statute depends on an appropriate number of adequately trained personnel. Personnel training must match the scope of autonomy offered to charter schools by the statute. Personnel numbers depend on the number of charter applicants and holders, the time allotted for administrative processes, and the amount of evidence necessary for the chartering agency to make effective decisions. Whether these personnel are full-time staff, consultants, volunteers, or supplied under contract by a firm retained to perform specific analyses or review the entire application is up to the chartering agency.

An Appreciation of Implementation Issues in Other States

Understanding the implementation problems faced by different types of charter applicants in different states, the status of issues faced by every applicant in every state, the alternative approaches to their resolution of these problems, and reviewing their relevance to implementation of the new charter law, should be of high priority. To obtain and maintain this understanding the agency must engage in outreach activities. It needs to establish strong working relationships with chartering agencies in other states. It should keep informed on the work of national education reform networks and access informal charter school groups on the Internet. It should build ties to policy analysts interested in charter schools and operating at the local, state and national levels. The agency should become involved with the various regional and national conferences sponsored by those who make up the nascent charter school movement. And it should consider sponsoring research on the problems of early implementation of charter programs.

Relationships with Other Government Agencies, Technical Assistance Organizations, Foundations, Professionals and the Banks

Chartering agencies have the power to give applicants an opportunity to create public schools, but the contractual relationship between chartering agencies and charter holder is only one of many necessary to the success of a charter program. Under most statutes, charter schools operate within a larger environment of government regulation and private sector support. Chartering agencies need to establish their own relationships with these actors.

Other government agencies, which may be skeptical about or unfamiliar with charter schools. Where a good faith commitment to work the charter problem has been made by a sister agency, the development of a positive relationship depends on the chartering agencies willingness to provide staff assistance.

Technical Assistance Organizations, which represent the interests of charter applicants and others who favor the establishment of charter schools. Chartering agencies should to initiate discussions as soon as they decide to go ahead with a charter program, solicit TAO input while the program is being designed, and share appropriate information with the TAO as a matter of course.

Foundations, which can provide resources to fill critical gaps. While designing their charter program, agencies should work with the foundations to identify particular needs private philanthropy might fill. Foundation support for studies of implementation issues in other jurisdictions; workshops and training materials; and the development of technical expertise to support agencies review and approval of charter applications might be particularly helpful.

Banks and professionals, whose support will be essential where charter schools are autonomous economic entities. Beyond announcing an intent to go ahead with a charter program, agencies should invite members of the private sector to participate in the design of the charter program and any workshops or training sessions the agency offers.

The Trust of Potential Charter Holders

Without the trust of individual charter applicants and holders the agency cannot implement a successful charter program. Before qualified applicants will make the very substantial investments required to start a charter school, they must believe that the agency is committed to making the charter program work and will make its best efforts to create a supportive operating environment for their

new schools. Applicants and holders need to know that a chartering agency wants the charter program to work, and will make its best efforts to work with a charter holder genuinely trying to create an effective school. Agency staff will require strong interpersonal skills.

Advice for Chartering Agencies

1. Undertake a serious study of the requirements before deciding to implement a charter program.

2. Do not implement a charter program unless you are prepared to make your best efforts to see it succeed.

3. Invest in expertise equal to the scope of autonomy the charter statute offers to charter holders.

4. Be prepared to render technical advice.

5. Remember that it is easier to weed out problem applicants than to deal with problem charter holders.

6. Give equal weight to people, the program and the implementation plan.

7. Recognize that due diligence requires looking for reasons to take a chance as well as reasons to disqualify an applicant.

8. Give applicants as much autonomy as they can handle, but not much more.

9. Create an oversight process with intermediate standards of performance and sanctions.

10. Develop strong working relationships with other actors in the charter school system.

Acknowledgments

1. Introduction

This document is a guidebook for chartering agencies. It is aimed at education agencies considering how to exercise the authority given to them to allow private individuals and groups to operate public school under state charter school legislation. The document provides basic information on the charter school concept, the capabilities required of successful charter school operators, the types of applicants and other private sector actors the chartering agency is likely to encounter, the functions of a chartering agency, and the capabilities required to carry out those functions. It is intended to help agencies develop their own charter school programs by providing general information on the charter school concept and its implementation. The guidebook is meant to be one of the first documents chartering agencies examine before they decide whether to implement a charter school program.

Section 2 explains the charter school concept in the context of other legislative approaches to public school reform, describes the basic features of charter school legislation, and outlines the basic types of charter school statutes. The section presents a framework for analyzing recent legislative proposals for education reform based on two factors: 1) the autonomy of individual schools from government control over decisions essential to their success as educational programs; and, 2) their accountability to government for performance. Using this framework , the section compares the statutory basis of traditional public schools, private schools, voucher programs, state standards and assessments programs, and site-based management with that of charter schools. It then describes the basic bargain of charter school law - autonomy from government control over decisions in return for accountability to chartering agencies for outcomes, and outlines the basic types of charter statutes.

Section 3 discusses the capabilities required of charter holders. No one knows the mix of autonomy and accountability most likely to create public schools that will improve educational performance for large numbers of students. Charter school statutes may permit charter holders to control the implementation of an approved educational program, economic resources, and the decision processes of government agencies responsible for public education. The responsible exercise of this expanding scope of autonomy requires that charter holders have expertise in curriculum, assessment and school administration, business and financial management, and a wide range of laws governing public institutions.

The section describes each of these capabilities in some detail, to serve as a basis for the development of criteria for charter approval.

Section 4 describes the interests and capabilities of different types of charter applicants and other private sector actors involved with charter schools. No applicant will fit neatly into a pigeonhole, but chartering agencies should be aware of basic tendencies. Depending on the charter statute, institutions of higher education; community service organizations; grassroots groups of parents, teachers and citizens; profit seeking firms; existing public schools and existing private schools may be permitted to hold charters. Each has its own interests in the charter option, programmatic focus, and capacities. In addition, charter applicants and holders may become involved with nonprofit technical assistance organizations (TAOs) established to help implement the charter statute; associations of charter holders; private lawyers, accountants, and consultants with professional expertise relevant to charter applications and operations; and private sources of finance to fund various "start-up" costs. Chartering agencies should be aware of the interests and capacities of each of these groups and understand their potential influence on charter programs.

Section 5 explains the basic functions of a chartering agency and the capabilities required to carry them out. Agencies need to consider how they will communicate their intent to implement the charter statute; create systems for reviewing and approving applications, and monitoring charter implementation; provide certain technical advice to applicants and contract services to charter holders; help to create an environment that supports efficient charter school operations; and devise means for dealing with problem schools, including decisions to terminate or not renew charters. To carry out these functions agencies will need detailed knowledge of the charter statute and related state and federal law; functional expertise to judge quality of applications and operations; an appreciation of issues related to the implementation of charter legislation in other states; relationships with other government agencies, TAOs, foundations interested in the charter concept, and the banking community; and the trust of potential charter holders

Section 6 concludes the report with some basic advice for members of chartering agencies to keep in mind as they design and implement their own charter school programs.

2. The Charter School Concept

Members of chartering agencies are undoubtably familiar with recent critiques of public education that lay much of the blame for inadequate student performance on the traditional system of public education. These arguments fault: 1) an organizational structure that controls the operation of individual schools through a hierarchy of school district central offices, superintendents, school boards, state and federal education agencies, and a parallel hierarchy of teachers unions, at every level more removed from the needs of students in the classroom; 2) a vast array of laws, rules and collective bargaining agreements implemented through these hierarchies that tend to stifle innovation; and 3) the lack of criteria and procedures which make it difficult for taxpayers, acting through their government, to hold public schools accountable for results or improve their performance. True or not, this assessment has resonated with citizens, legislators and governors in many states, prompting proposals for legislative reform of the public school system including the establishment of state-wide learning standards and assessment, granting state education agencies the right to intervene in failing districts, creating voucher programs that turn over the function of public education to private schools, giving local boards the power to decentralize through site-based management, and now the creation of "charter schools."

This section is intended to help the members of chartering agencies understand how the charter school concept fits within this broad argument for change in the legal structure of public education.[1] By comparing the legal status of public and private schools, the section describes an analytical framework that addresses concerns about the autonomy of individual schools from direct government control and the accountability of public schools for educational performance. The section first discusses the traditional system in the context of this framework and then the reform proposals to improve state standards, create vouchers, increase site-base management, and develop charter schools. Finally, it discusses basic types of charter school statutes.

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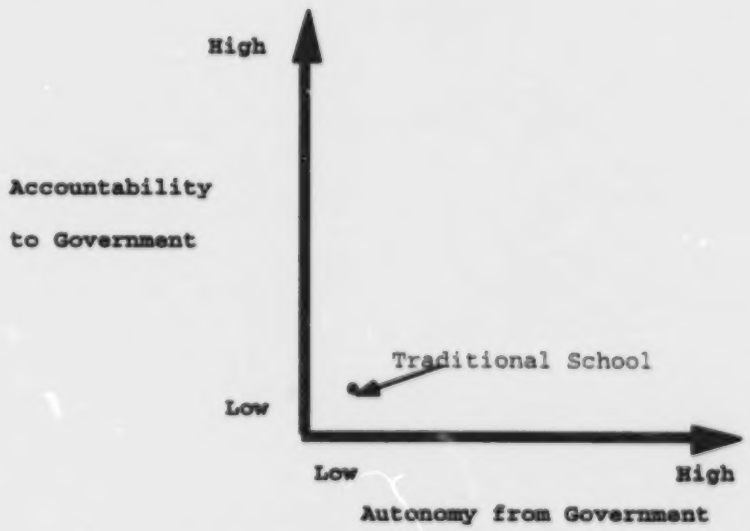
[1] This section is based on and extends, Marc Dean Millot, *What are Charter Schools?*, UW/RAND Program on Reinventing Public Education, University of Washington (Seattle), April 1995.

Traditional Public Schools

Individual public schools have no legal status independent of the districts where they are located. Schools are simply convenient administrative elements of the school district. Traditional public schools are operated under the direction of the local school board, the district superintendent, administrators in the school district's central office, and very often the terms of collective bargaining contracts. Individual schools lack control over matters essential to their achievement as educational institutions. Parents, teachers and even the principal have virtually no power to decide matters critical to their school's success. (See Fig. 2.1.)

Fig. 2.1. Traditional Public Schools Lack Both Autonomy from Government and Accountability to It



Traditional public schools are often swamped in rules, bureaucracy, and contracts imposed from above. They carry out an educational program established by the district for students allocated to the school by the district. They do not control the financial resources actually consumed at the site to operate the school, they have virtually no authority to contract for goods and services, they have no significant control over the school's personnel, and they have no control over the level of funding the district will allocate.

While districts are accountable to other government agencies, the electorate, and to the public at large for their financial management, personnel decisions, admissions policies, and decision processes, the individual public schools within districts have had no separate accountability. Until fairly recently, there have been no standards for the performance of individual public schools, no serious efforts to assess their performance, and no negative consequences for principals and staff when they fail.

Laboring under the central control of state and district education agencies and subject to the constraints of state civil service regulations and district-wide collective bargaining agreements, a district's schools tend to look the same. With great effort a few special schools may be separated from the system, but on the whole, individual schools find it hard to meet the particular needs of students in their communities. Beyond the small number of exceptional schools, parents have few real options as to the type of public school they may choose to send their children. With no competition from other school operators for the tax dollars raised to educate the vast majority of children, school districts and the individual schools within them lack a powerful incentive to improve. And because most schools lack the autonomy necessary to break away from the norm and provide an educational program tailored to their students' needs, it is arguably unreasonable to hold them accountable for their educational performance.

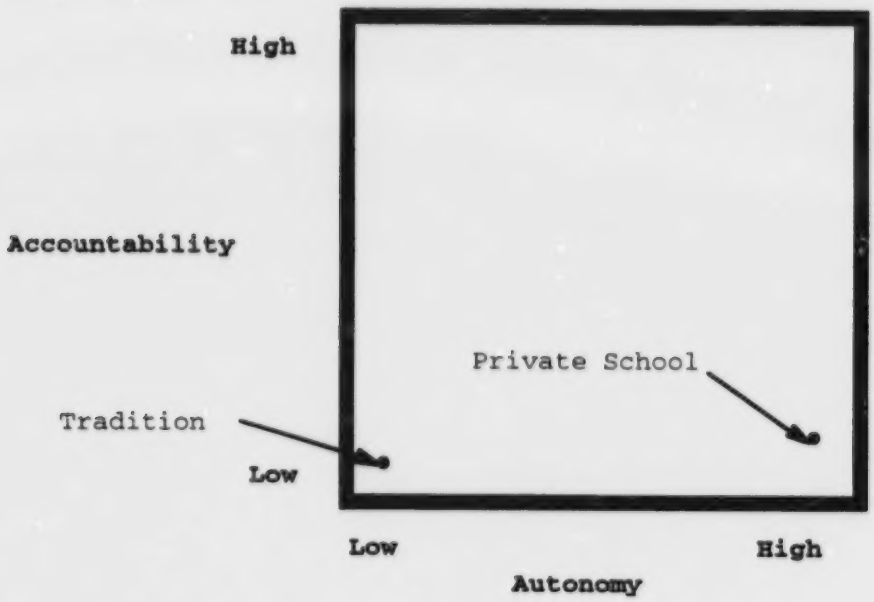
Private Schools

Dissatisfaction with the position of the traditional public school leads naturally to comparison with private schools. Where individual public schools are merely administrative units of a larger school district, private schools are independent legal entities. Decisions essential to the success of the private school are controlled by the private school. It determines the educational program it will offer and the kinds of students it will serve, controls the resources consumed at the site, contracts for goods and services, and has the final say in personnel matters. The private school is guaranteed no particular level of funding, but it is free to charge tuition and to attract as many students as it chooses. In short, the private school operates in a market. (See Fig. 2.2.)

The autonomy offered by the marketplace has powerful effects on the scope and nature of private education. Parents with adequate resources and private donors can choose from a wide variety of schools with distinctive educational programs. The competition for tuition-paying students and donations, and the prospect of going out of business, provides private schools with strong incentives to satisfy

their communities, continuously improve their educational offerings, and manage their resources wisely. Schools able to master the challenge thrive, those that do not go out of business.

Fig. 2.2. Private Schools are Essentially Independent From Government and Accountable Primarily to the Market

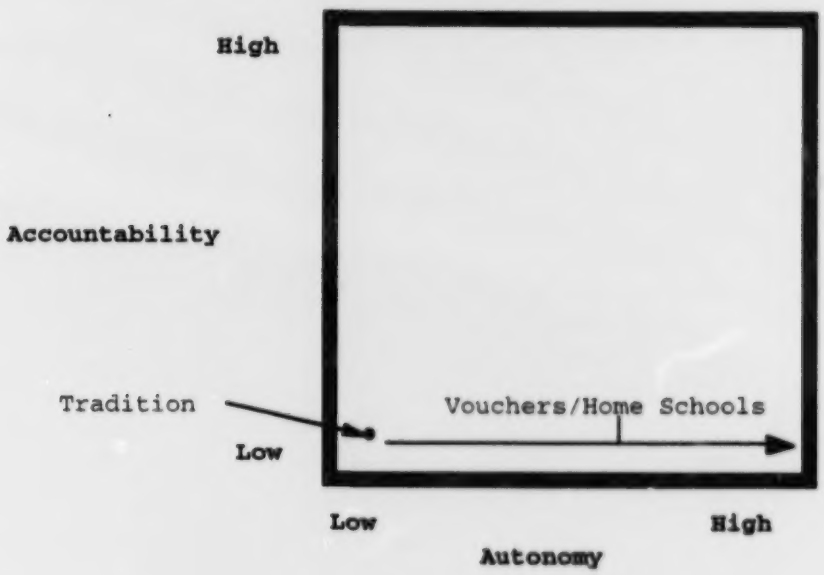


But because they are formed by private initiative, are not government programs, and do not rely on public funds, private schools are not very accountable to government, the taxpayers, or the public at large. They are generally subject to an absolute minimum of state regulations. They may teach religion, discriminate in admissions on a wide range of criteria not available to a school district, and charge tuition. And independent private schools are under no special obligation to government for their level of educational performance, sound financial management, or fair and equitable decision processes. They are accountable only to the marketplace - to parental choice and their own capacity to manage resources.

Voucher Proposals

Some proposals to reform public school systems that follow from a comparison of public and private schools emphasize school autonomy from government, and would create a competition for the tax dollars devoted to public education. (See Fig. 2.3.) Voucher proposals allow private schools to compete with school districts for a share of federal, state and local budgets devoted to public education.[2] They also shift more responsibility for public education to parents by allowing them to choose their children's' schools.[3]

Fig. 2.3. One Trend in Education Reform Promotes Accountability by Emphasizing the Market



A state's right to permit tax dollars to flow to sectarian schools has not been fully resolved, but a state can impose conditions on voucher payments, requiring

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[2] John E. Chubb and Terry M. Moe, *Politics, Markets and America's Schools*, The Brookings Institution (Washington, D.C.), 1990.

[3] *See* RCW 28A.200 ("Home-Based Instruction").

private schools to accept some number of low income students or implement admissions standards dictated by the state, and prohibiting them from accepting tuition payments above the voucher or affiliating with a religious institution. Acceptance of these conditions does not transform private schools into public schools, nor does the receipt of public funds transform a private school's board of directors into public officials. Vouchers privatize public education by allowing private schools, funded with tax dollars, to meet the state's obligation to educate its children.

Private schools that accept vouchers are accountable to government to meet the minimum health, safety, civil rights and educational requirements established for private schools, and voucher legislation may add new requirements, but voucher proposals rely primarily on the market for accountability. They do not permit the government to condition state payments on the educational performance or financial stability of the private school, or on the fairness and openness of its decision processes. Vouchers replace direct government control with market forces (e.g., parental choice, marketing talent and managerial capacity) to assure that individual schools are accountable for educational performance. Schools that satisfy parents and keep revenues ahead of expenses stay in business, the rest fail.

State Standards

A second set of proposals address the state's responsibility to assure that eligible students receive an adequate education by increasing accountability for educational performance at every level of the public school system. More stringent requirements for teacher certification, performance-based superintendent contracts, state standards for student performance in key subjects, the development of more authentic student assessments, comparative reports of overall student performance in district schools are some of the features of this approach. For example, Maryland's School Performance Program legislation permits the state to take over a school, or even a district, that fails to meet minimal performance standards.[4] These proposals set criteria for evaluation and penalties for failure, but do not address school autonomy or improve the ability of individual schools to determine and take actions necessary to assure a successful educational program. The schools remain subject to school

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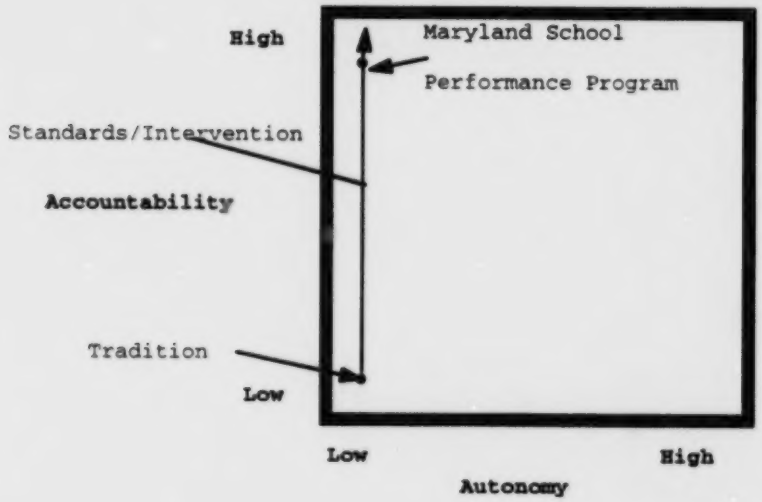
[4] See Section 13A.01 of Code of Maryland Regulations.

board decisions, district and state regulations, civil service rules and union contracts. (See Fig. 2.4.)

Fig. 2.4. A Second Trend in Public School Reform Promotes Accountability through State Standards and Assessments



Site-Based Management

A third legislative approach begins to move more of the responsibility and authority for education policy from the state and the district to the individual public school. Statutes authorizing districts to permit site-based management and shared decision-making, including Washington state's "pilot programs in school based management"[5] and its' six-year legislative experiment with "21st Century Schools"[6], allow parents, teachers, and other school workers to participate with the principal in the development of a proposed school improvement plan, approved by the district authorities. (See Fig. 2.5.)

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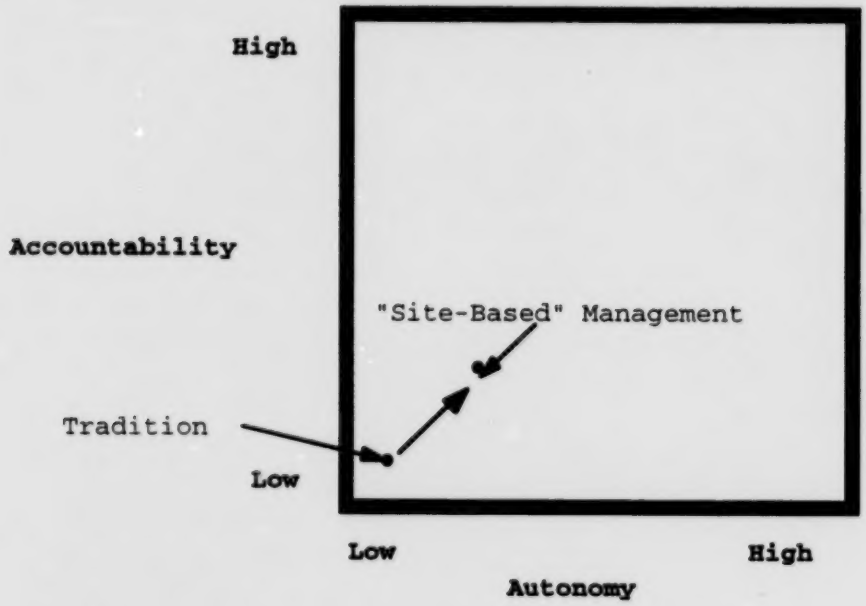
[5] RCW 28A.240.

[6] RCW 28A.630.100-295. By statute, the program ended in June, 1994.

Fig. 2.5. A Third Trend is to Increase the Authority and Responsibility of Individual Schools for Decision making



Under site-based management, the school site team is given a measure of freedom from the district's direct control and must satisfy the local school board with its subsequent performance. The improvement plan generally covers a relatively narrow range of education policy, typically related to the development of instructional programs consistent the district's curriculum. The team may also control a very small budget sufficient for materials and the teacher release time necessary to develop the plan.

But the independence of the site team is compromised in several ways. The principal remains legally responsible to the superintendent to represent the district and carry out its policies, and the teachers are bound by their union contract and membership obligations. After the school board approves the team's plan it is under no legal obligation to the team to carry out that decision, and may subsequently modify or reverse its decision at its own discretion. The site team may or may not oversee implementation of the plan, but in any case the team does not control the school. Its authority is constrained by the principal's responsibilities to his superiors, the activities of the central office, and the school board's responsibility to approve the team's actions.

Moreover, the site team must act within the confines of existing state laws and regulations, district policy, or union contracts, absent specific waivers from the state, district or union. Waivers of state law are often held by the district and waivers of district and union rules are often obtained by informal means. The team has little in the way of procedural or substantive rights to prevent the arbitrary withdrawal of these waivers by district or union officials. Site-based management depends largely on the political will of "higher -ups" with legal authority for operation of the school system.

In addition, the accountability of site teams is generally weak. While provisions permitting site-based management are sometimes passed as part of legislative reform packages that include the state-wide standards and assessments discussed above, the legislation generally does not explicitly condition site autonomy on educational performance. Nor are site teams accountable to the market. As with traditional public schools, the operations of those practicing site-based management are dominated by political and bureaucratic dynamics. They will be assigned what the superintendent and central office determine to be their fair share of the districts student population and receive what the superintendent and central office consider to be an commensurate level of financial, human and other resources - subject to school board intervention.

Charter Schools

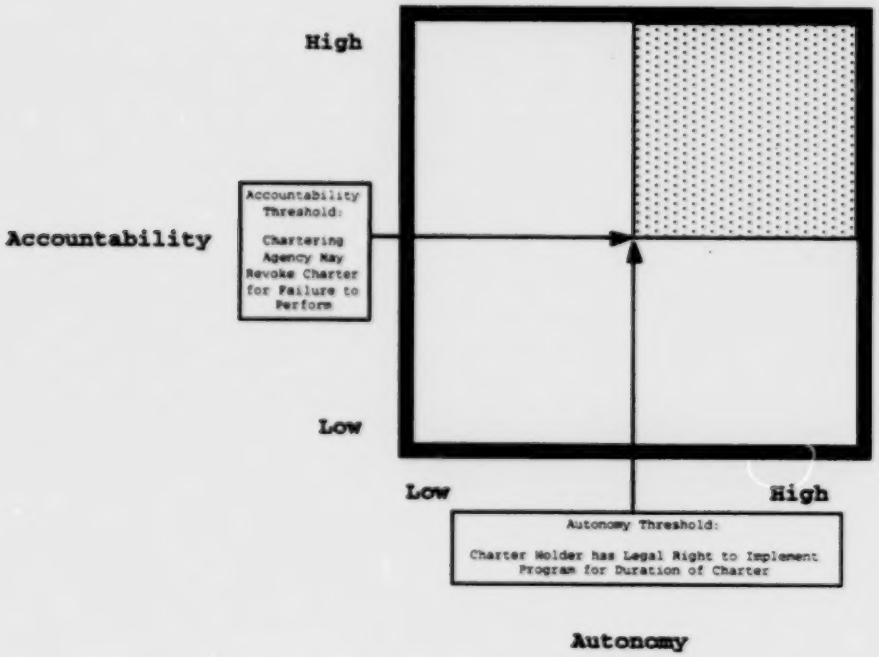
The charter school concept combines proposals to increase individual school autonomy with efforts to create high levels of public school accountability. In many ways it is a logical extension of site-based management. But the concept uses both government oversight and market mechanisms to foster school-level accountability.

At least twenty five states have passed "charter school" legislation empowering agencies of state government charged with public education to enter into agreements with private individuals and groups to operate public schools. The fundamental framework of the charter arrangement is simple. The charter holder has a right to implement the school program approved in the charter for some number of years. The chartering agency may revoke the charter and close the school if the charter holder fails to perform. (See Fig. 2.6.)

The agencies with chartering authority vary by state, but include state and local boards of education, special state agencies established solely to implement charter legislation, state universities and community colleges. The statutes allow these agencies to convert existing public schools to charter status and often to

create entirely new public schools. Like other public schools, charter schools may not teach religion or charge tuition, and must respect the right of students enrolled in their schools to constitutional protections such as due process. The duration of a charter may be as long as fifteen years, although most run between 3 and 5 years.

Fig. 2.6. The Charter School Concept Balances the Autonomy and Accountability of Individual Schools



Charter schools are generally schools of choice - in most states students may not be compelled to attend a charter school. As a rule, charter schools are funded on the basis of student enrollment, with the schools receiving a proportionate share of the basic and categorical funds allocated to public education by federal, state and local government. Financing and choice make charter schools responsive to market forces.

Like vouchers, charters introduce the public school system to a competition for the tax revenues devoted to public education. Charter schools are financed by moneys that would otherwise flow to traditional public schools. As schools of

choice, charter schools must attract enough parents and students to be financially viable. If enough charter schools are successful the rest of the public school system will have to respond to market pressures by offering equally attractive programs. But charter schools are not publicly-financed private schools . responsive only to the market. The boards of trustees of a charter school are public agents approved by the agency granting the charter. Charter holders are directly responsible to agencies of state government to meet certain student performance requirements; maintain financial viability; protect the rights of students, parents and employees; and carry out the educational responsibilities of state government.

Consistent with efforts to improve accountability for performance, charter schools must meet educational standards established in the charter school statute (which often incorporate the statewide standards and assessments contained in prior reform legislation), or the schools' charters. In many cases, they are also required to meet approved standards of financial management and comply with processes applicable to government decision making, such as open meetings acts. Charter school applicants must justify their proposed program to education agencies of the state before receiving their charter. Should charter holders fail to meet their agreements, chartering agencies may revoke their charters and close their schools. But charter schools are also given control over key decisions necessary to assure the success of the programs they propose.

As under site-based management, decisions at charter schools are made by people with a stake in the success of their particular school, but chartering agencies are bound by their agreement to let charter holders implement their program. Absent gross negligence, incipient financial collapse, obvious failure of the educational program, or a serious violation of law, charter school operators have a legal right to manage their school free of outside interference for the term of their charter. And in addition to allowing existing public schools to convert to charter status, the statutes often permit private individuals and organizations to establish entirely new public schools.

Categories of Charter School Statutes

The "basic bargain" between chartering agencies and charter holders embodied in charter school statutes is "autonomy for accountability." Chartering agencies may give new or converted charter schools control over a set of decisions the legislature has deemed essential to their success as educational institutions. Charter holders obtain a legal right to implement the program embodied in their charter without interference for the term of their charter. In turn, they are

accountable to the chartering agency for their performance. Charter holders are also accountable to the market, because their viability depends on their ability to attract students and manage resources.

No one knows the mix of autonomy and accountability most likely to create public schools that will improve educational performance for large numbers of students. Charter school legislation is based on the proposition that at a minimum, individual schools must: 1) have a right to control some decisions important to the success of the educational program for some number of years; 2) be responsible to government authorities for educational performance and for carrying out a constitutional trust financed with tax dollars; and 3) be responsible to market and competition.

Each state has elaborated on this theme in its own way; no two charter school statutes are exactly alike. Nevertheless, a review of the first 15 statutes suggests that they create three basic categories of charter schools: "super site-based management", "contract schools", and "independent public schools."[7] (See Fig. 2.7.)

Super Site-Based Management

In some states, the scope of a charter school's autonomy is confined to the educational program. Examples of this modest extension of site-based management are offered by such states as New Mexico and Georgia. These statutes generally only empower school districts to approve the conversion of existing public schools to charter status. Charter approval gives a small pool of private individuals - teachers and parents at an existing public school - the right to carry out their proposed curriculum and instructional strategy for the term of the charter. In some instances, the charter holder is given a blanket exemption from those portions of the education code relating to such matters as curriculum requirements and the length of the school day and year. In others, the charter applicant must identify those portions of the code that constitute an obstacle to the proposed educational program and justify each waiver.

Under this approach, the charter holder's control of the converted school is limited to those decisions directly related to the implementation of the approved plan describing curriculum and instructional strategies. Personnel policy,

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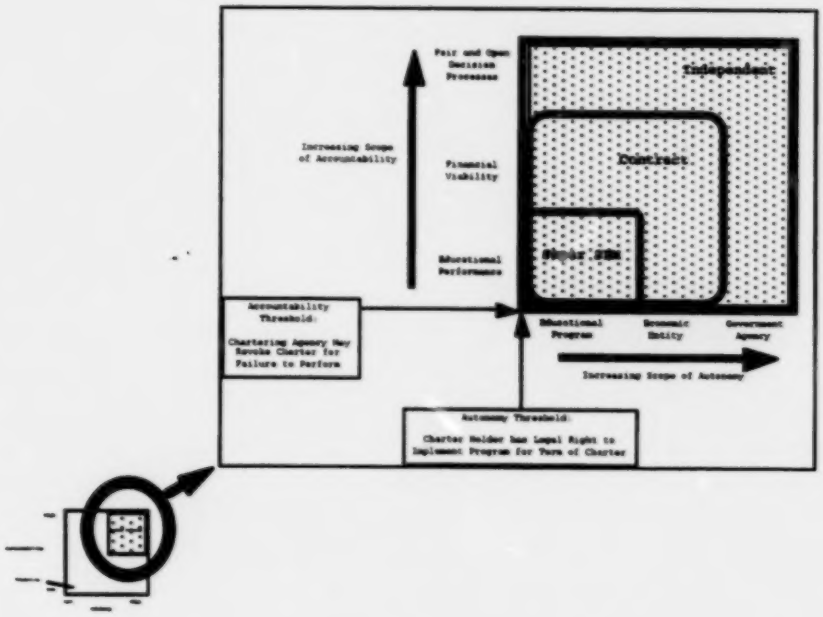
[7] Marc Dean Millot, *Autonomy Accountability, and the Values of Public Education*, UW/RAND Program on Reinventing Public Education, University of Washington (Seattle), September, 1996.

budgets, and other matters of school management remain under the school district's control. Although charter holders have the right to carry on with their educational program for the term of their charters, charter schools operated under the "super site-based management" option have no legal significance independent of the school district. The school remains an administrative unit of the district, subject to school board decisions on such critical matters as personnel and budgeting. The school district remains the public employer for the purposes of collective bargaining and the teachers at the school continue to be part of the district bargaining unit.

Fig. 2.7. State Statutes Create Three Categories of Charter Schools



Where charter school autonomy focuses on curriculum and instructional strategies, accountability is confined primarily to educational performance. But, even where the scope of autonomy is so narrow, charter schools are accountable to both government and the market. If the charter holders are unable to balance the capacities of the existing teaching staff and the few resources they do control (such as their own time, or the school's small materials budget), against the demands of the student body and the educational program, they may fail to implement the program or meet the performance expectations of parents and the school board. If the program fails to perform as advertised, the school will lose

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loose parental support and eventually student enrollment. If the program fails to improve student outcomes as specified in the charter, or does not attract enough students, the school board may terminate the charter.

Contract Schools

Under the "contract" option, local school boards are permitted to grant charters to a range of private groups and individuals, in addition to the teachers and parents at an existing public school. This creates an opportunity for the establishment of entirely new public schools within the district as well as the conversion of existing public schools. These schools are financed by per pupil payments from the district and/or state made to the school according to formulae based on the charter school student's share of total school district expenditures, adjusted by law or negotiation to account for education, support or administrative responsibilities the district will continue to bear on behalf of students enrolled at the charter school.

Here, the scope of autonomy granted to charter holders extends beyond curriculum and instruction to business decisions, such as the right to hire and fire staff, contract for goods and services, and lease or purchase real property. However, the enabling legislation is often written so as to allow a local board to determine or strongly influence the actual scope of autonomy it will grant in a charter, sometimes subject to a charter applicant's right to appeal a decision to deny a charter to a state education agency. In addition, charter applicants may determine that the district is the most efficient provider of such services as transportation and food service, and decide not to pursue an expansion of their autonomy into those areas or to contract with the district to provide those services. Because the local board is granted substantial discretion in its decision to grant charters, the nature and extent of alternative schooling in the district will be largely a matter of board policy. Something like this is approach describes most charter school legislation.

The precise legal status of charter schools is likely to be uncertain under this type of statute. For example, the statute may state that teachers remain part of their district bargaining unit. This implies that the local union negotiator will bargain charter school labor issues with school district representatives in the broader context of labor matters affecting the entire district, a situation that clearly limits charter school autonomy. In other cases the statute may be silent. Where the legal status of charter schools is ambiguous, local school boards and union locals are likely to argue that they remain part of the school district. Charter holders are likely to assert the school's independence, by claiming the status of public employer. A resolution may depend on the courts.

Contract charter schools are accountable for their performance as economic entities as well as for student outcomes. In addition to revoking a charter for failure of the educational program, the local board may terminate the charter of a school that fails to maintain financial records consistent with generally accepted accounting procedures or that is well along the road to insolvency. Charter holders are accountable to the board to meet the charter's terms, but often have the right to appeal local board decisions to revoke the charter.

Because they operate on the basis of per pupil payments paid by the state or district to the school, contract charter schools are also highly accountable to the market. Where the super site-based management schools are accountable to the market in the sense that they must attract sufficient students to justify their program in the eyes of the local board and manage staff resources, contract charter schools will literally go out of business if they cannot generate sufficient revenues to cover their expenses. This means they must first attract enough students to cover estimated costs, and then manage their financial, human and other resources so as to meet the actual requirements of school operations.

Independent Public Schools

The first two categories of statutes tend to give local school boards primary jurisdiction over charter schools. Although state education agencies may reverse board decisions on appeal, only local school boards grant charters and oversee charter implementation under these approaches.

A third category of charter school stands entirely apart from the school district in which it is located. The "independent public school" may be authorized by a local school board in some states, but more likely its charter is granted by agencies operating at the state level, perhaps by the secretary of education as in Massachusetts, a state board for charter schools as in Arizona, a state university or community college as in Michigan, or by referendum as in New Hampshire. These schools receive something like 100% of the average per student share of the district's educational expenditures for every student enrolled in the school, control all of the functions performed by school districts, are the public employers for the purposes of collective bargaining, are treated as if they were school districts by other agencies of government, and are distinct legal entities in their own right.

Like the contract school, the independent public school can be operated by a wide variety of private individuals and groups, and controls a broad range of important decisions. These independent public schools are intended to compete with traditional schools managed by the school districts, and this competition is

intended to pressure the traditional public school system to improve the quality of its educational services.

Under this approach, charter schools are essentially independent government agencies. Here the statutes give charter schools the right to implement their approved educational program, control over all economic decisions, and the powers of a government entity. These schools are accountable to government for their educational and economic performance, but also for their adherence to standards guiding government decision-making processes. Chartering agencies may terminate the charters of independent public schools because of a failed educational program or financial insolvency, and also for a failure adhere to state laws governing student admissions, government procurement or "open meetings."

The scope of market accountability also expands for independent public schools. Like contract schools, they must offer educational programs attractive to enough parents to raise revenues sufficient to cover costs, and must manage their financial and other resources wisely, but they are also accountable to the market for their behavior as government agencies. Schools that violate the laws governing how public agencies make decisions must bear the costs of defending themselves - marginally viable schools could find themselves bankrupted by lawsuits.

Conclusion

Charter schools combine trends in education reform to improve school autonomy, increase school accountability to government and the marketplace, and place more of the responsibility for important decisions with the stakeholders at the individual school. State charter school legislation implements the basic bargain of autonomy for accountability in a multitude of ways. Those interested in pursuing the concept can look to the statutes for three models: super site-based management, contract schools or independent public schools. The option states choose and the timing of their legislation depends on judgments as to the mix of autonomy and accountability likely to improve student performance.

3. The Capacities Required of Charter Holders

Whatever the scope of autonomy offered by a state's charter school statute, the legislation generally requires that those holding charters exercise their autonomy responsibly and that those seeking charters demonstrate their capacity to do so. To receive a charter, applicants will have to convince a chartering agency that they are capable of operating an autonomous public school. Depending on the degree of autonomy offered by the statute, applicants may also be required to convince a chartering agency they have credible educational programs and means of assessing student learning, multi-year business plans, and governance structures. Once they have received their charters, charter holders will be required to conform with state educational standards and tests, and depending on the scope of their autonomy, permit audits of their financial records by appropriate state agencies, and comply with various state laws governing the operation of government agencies.

This section examines the most important aspects of charter school functions: educational programming, business operations, governance, and legal compliance.[8] It discusses the need to consider the people who will control and operate the school and their capacity to manage the transition from a paper proposal to an operational school.

The Educational Program

Under many statutes, charter schools will be economic entities and government institutions, but the core purpose of all charter schools is to provide educational programs for students in one or more of grades kindergarten through 12. To operate a charter school, applicants must be able to conceive and manage an educational program. They must create a program that is credible to educators, attractive to parents and students, and economically viable. Few applicants are likely to possess a complete set of the broad array of skills and expertise

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[8] This section draws upon Marc Dean Millot, *What it Takes to Start a Pennsylvania Charter School: A Guide for Applicants*, DRU-1492-IET, RAND Institute on Education and Training (Santa Monica, CA), September 1996.

necessary to meet these goals. Most will have to draw upon outside experts for at least some support.

The accountability to the market inherent in charter school funding mechanisms demands that chartering agencies be assured that the proposed educational program is reasonably likely to attract enough parents and students for the school to make the school financially viable. The accountability to government embedded in charter school statutes requires that chartering agencies satisfy themselves as to the quality of the school's educational offering.

In so far as the educational program is concerned, the nature of the charter applicant's accountability to the market and government overlap but differ. While parents are certainly concerned about their children's educational performance, they may also have other interests that inform their choice of schools. An extended day may coincide with a parent's work schedule. An ethnic or cultural theme may appeal to a parent's sense of identity. A school's location on the way to work or in the neighborhood may influence the choice of school, as may the presence of siblings or friends. These elements of the educational program are certainly relevant to a chartering agencies inquiries into the attractiveness of the school to parents and hence the financial viability of the school. But the chartering agencies principal concern should be the efficacy of the educational program - its likelihood of improving student achievement. First and foremost, chartering agencies have a responsibility to assure the educational performance of the schools they charter.

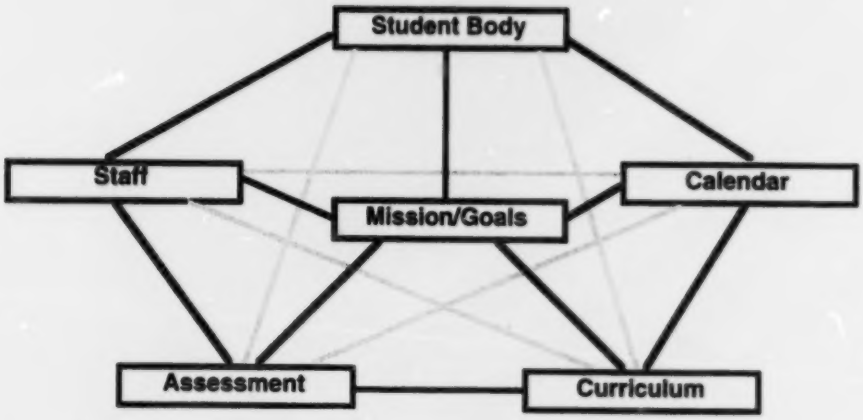
Establishing a new school is a demanding task. As a rule, charter statutes require applicants to propose a viable (if not compelling) vision, curriculum, and instructional approach. They must describe meaningful educational objectives. They must propose means of assessing student and school performance that conform with state requirements or at least measure progress towards the attainment of the educational program's objectives. Charter applicants must provide evidence of their ability to administer a school building - to schedule classes, assign students, handle children and parents, set calendars, deal with problems of student transportation and food service, and the hundreds of ongoing management issues that arise in school. They must demonstrate a capacity to hire and/or develop a staff qualified to deliver the proposed educational program and manage students, staff and parents.

Basic Requirements

Charter school statutes generally require that charter school applications contain information describing: the student body, including admissions policies and the

grade or age levels to served by the charter school; the proposed calendar, including the length of the school day and school year; the school's mission and education goals, curriculum and assessment methods; and perhaps something about the staff. This information goes to the core of proposed charter school's educational program. In a proposal of high quality each of these descriptions will be coherent and consistent with the others. (See Fig. 2.1.)

Fig. 3.1. Important Relationships Among the Educational Program Descriptions Required by Charter Statutes



Mission and Goals

A charter school starts with a vision of what it means to be educated; what a student must know to live and grow in today's society, and to contribute to it; how students learn; the role of a teacher in a public school and of a public school in the community; and the values that society should pass on to the next generation through the public school system.

Descriptions of this vision should demonstrate the applicant's understanding of the substance of education and the process of creating a school. The substance consists of knowledge about state and national standards defining what students must know and the skills they must master to progress through and graduate from grades k through 12, the expectations of major employers and the needs of students and parents in the community where the proposed charter school will be located, and the current state of academic research on learning and teaching. The process centers on skills and techniques to facilitate the development of a common understanding of the vision within the applicant group. When hardships arise, as they surely will, it will be vitally important that all the key members of the applicant group, the school's supporters, and the parents of

children attending the school hold a common view of the school's mission and goals.

Assuming a credible vision that enjoys real consensus, the extent to which the rest of the proposal demonstrates fidelity to the school's mission and goals should serve as an important criteria for evaluating the remainder of the educational program and indeed the rest of the application.

Student Body: Admissions and Marketing

Charter school statutes generally require that applications include a description of proposed admissions policies, procedures and criteria. Most prohibit admissions criteria based on race, ethnicity, religion, gender, disability, proficiency in English, intellectual or athletic ability, measures of achievement or aptitude, or any other basis that would be illegal if used by a school district. However, some do permit the use of academic ability, and others allow a charter school to focus on mathematics, science or the arts and establish reasonable criteria to evaluate prospective students. Many give a preference to siblings of children attending the school. Students attending public or private schools converted to charter status also often receive preferential treatment. In most cases, where the number of students eligible to attend a charter school exceeds the capacity of the school, attendance must be determined by lottery.

Charter applications should demonstrate that the applicant has a solid grasp of the legal limits of these bases of admission, but chartering agencies need to appreciate that charter school statutes give applicants some opportunity to describe the kinds of students that they believe will find the school attractive. Indeed, some statutes establish a preference for schools that target disadvantaged students. More generally, the charter concept assumes that a wide variety of special educational programs and parental or student choice are good for society, which implies an acceptance of such business concepts as product differentiation, market segmentation, and target markets in the design of an educational program.

Consequently, while charter schools are limited in their capacity to discriminate in their admissions, they are free to develop educational programs tailored to particular types of students. A charter school probably cannot make gender a condition of admissions, but it can offer an educational program designed to support teenage mothers. A charter school cannot discriminate on the basis of race, but it can emphasize African-American culture in its educational program. In most cases, admissions must be open, but school designs can be targeted. Chartering agencies must be careful to assure that targeting of the educational

program to particular categories of students does not become discrimination against categories of students who do not fit that profile.

Potential charter school applicants need to demonstrate some knowledge of the general student market and explain how the proposed program matches the needs of the student body and the parents they hope to serve. The school's mission, its curriculum, the length of its school day and school year, and its staff should be developed to fit the market. A school aimed at students from an economically disadvantaged community of recent immigrants should have a strong capability in bilingual education. A high proportion of its staff, including the principal, should be able to communicate in the parent's first language. A program aimed at children in families where both parents are employed full-time should have an extended school day that coincides with the work day. A school that will attract students with special needs - or students just under the threshold of that classification, should have a staff prepared and certified to teach those kinds of students. A school aimed at the mainstream student should be able to demonstrate attractive features that will distinguish it from district schools in the eyes of enough parents to make the school financially viable. Those planning an educational program based on Montessori or Waldorf principles, or the Core Knowledge curriculum, should offer the chartering agency evidence of the demand for such a school in the community.

A chartering agency's expectations of the extent and sophistication of this market research should vary with the proposal and local conditions. A proposed school for 600 at-risk teenagers drawn from across a major city may demand more research than one for 25 students. A proposal for a school that must take half of a smaller districts' middle school students to become economically viable shoulders a heavy burden of proof demonstrating sufficient parental interest. A formal survey may be justified for a school of 1000 students , where the entire educational program will be contracted out by the board of trustees to a for-profit Education Management Organization, such as the Edison Project or Sabis International. A community meeting may suffice for an existing public school considering conversion to charter status. But even where the demand is "obvious" to everyone, the potential charter school applicant should be able to describe the target market's needs and expectations - to demonstrate to the chartering agency that the proposed school is a viable enterprise.

Calendar

The school calendar offers an important opportunity for charter schools to distinguish themselves from other public schools. Charter school operators may be able to set a longer school day and year than the district's can under

prevailing union contracts. A longer day and year may be particularly appealing to families with two wage-earning parents who are concerned about leaving their school-aged children unsupervised after school lets out for the day and vacations, and who find day care a financial hardship.

A longer day and year can also enhance the efficacy of the proposed educational program. It provides the opportunity for additional instructional hours, which can be used for additional time on task in core subjects, to add field trips and other off-campus learning opportunities, to deepen a school's offerings in music or the arts, or to extend the curriculum into less traditional areas, such as community service. Chartering agencies should expect applicants to explain with some specificity how the additional hours and days will be used, how the uses relate to the school's mission and goals, and how the additional time in school will enhance educational performance.

Longer school days and years carry costs that applicants need to address. More hours in the school building increases the utilities and maintenance expense. A longer day and year demands more of staff, and may require the school to raise staff salaries to attract quality teachers, administrators and support personnel. If the school does not increase pay levels, it may be forced to rely on relatively young staff with high enthusiasm but limited experience, or experience high staff turnover. And the funds spent on teachers are funds not spent on something else, such as renovations, equipment and materials. Chartering agencies should inquire into applicants financial analysis of their educational program, and expect applicants to demonstrate that they recognize and have resolved key economic tradeoffs among such matters as the school calendar, salary levels and teacher experience.

Curriculum

The basic service provided by schools is the education of students. Curriculum and the instructional materials and teaching methods that go with it are the principal means by which that service is delivered. Charter applicants may develop their own curriculum from scratch, they may purchase materials and training for all or some of it from for-profit and non-profit developers, or they may contract with a profit or nonprofit firm to provide all or part of the basic educational service directly to students.

The choice among these options depends on the capabilities and objectives of the potential charter holder. The school of education at a college or university may see the charter school as an opportunity to create a "laboratory school" - developing curriculum, materials and instructional strategies is well within its capacity. A social service organization with a history of community service

related to education, including perhaps worker training or pre-natal education, may be able to contract with a design-based assistance organization (such as one of the design teams funded by the New American Schools Development Corporation) to train its staff to implement a particular curriculum. A school that finds itself with many students below their grade level in reading or math may hire a firm like Sylvan Learning to take on that specific part of the curriculum aimed at improving math or reading skills. A charter school started by parents probably will need to delegate the responsibility for curriculum development to the teaching staff it hires to operate the school, or to firms like Sabis, Edison, Alternative Public Schools, or Advantage Schools, contracted to operate the school's educational program.

From the chartering agency's perspective, the key issue is whether the proposed curriculum is reasonably likely to yield satisfactory levels of educational performance. Whatever approach is taken, applicants should provide evidence that the school's curriculum supports its mission, meets the needs of the student body the school hopes to serve, fits the capabilities and training of the teachers hired to use it, coincides with the school's calendar, and is in harmony with the kinds of student assessments the school will use to demonstrate educational performance.

Developing a curriculum that is consistent across these dimensions requires professional expertise in the design, development, and use of educational programs. Just as a chartering agency could reasonably expect that the charter holder will retain an attorney to review proposed and actual school operations for compliance with the law, and a financial expert to help develop the business plan and monitor the budget, it should expect that an educator will be involved in developing the curriculum and reviewing its execution. Applicants should demonstrate an intention to retain access to this expertise after charter approval, and particularly during early implementation of the proposed educational program.

Assessment

Charter school statutes typically require that students in charter schools meet the same testing and academic performance standards that apply to other public school students. This establishes a baseline against which a proposed educational program will be judged. In addition, charter school applicants are permitted and sometimes required to describe the desired outcomes of their proposed educational programs and to explain how those outcomes will be measured.

Chartering agencies should expect applicants to explain how the proposed curriculum relates to required state tests and standards, and point out if, how and where it may have been adjusted to meet state requirements. Agencies are well within their rights to reject a proposal containing a curriculum totally at odds with state standards, but should be careful not to reject unorthodox curriculum proposals merely because they are not wholly consistent with those standards. Applicants should be given an opportunity to explain how they plan to bridge the gap.

Attention should be given to the value of an applicant's alternative assessments, particularly where state-wide standards and assessments have not been defined. Applicants should be able to explain the objectives of their educational program, relate those objectives to standards of performance, and demonstrate how their assessment techniques will measure student achievement against those standards.

The consistency of curriculum and standards goes to chartering agencies' determinations of a proposed school's financial stability as well the efficacy of its educational program. Should a charter school's students fail to meet state academic requirements because the educational program does not address those requirements, it is likely to lose the students it has, fail to attract new students, and become insolvent.

Assuring that the proposed curriculum is aligned with state standards and assessments will require the expertise of a professional educator with relevant experience. Chartering agencies should seek assurances that applicants will retain the services of educators skilled in assessment after charter approval.

Staff

Charter school statutes may require some, all or none of the staff to hold valid teaching certificates issued by the state. In addition, the statutes sometimes require the charter applicant to describe the proposed faculty. This may mean that the applicant will be expected to name specific individuals and provide their resumes. More likely the application must contain job descriptions and qualifications for faculty positions. In any case, even where there is no explicit requirement that the applicant provide such information or hire certified teachers, chartering agencies have a right to expect applicants to provide a credible explanation of how the staff will be organized and the skills and experience required of each staff member to implement the proposed educational program.

Applicants should be able to demonstrate that the administrators and support staff, as well as the teachers, hired to run the proposed charter school will be qualified to fulfill its mission, teach its curriculum, and meet the demands of its calendar. Moreover, because the charter school will be a new venture with all the chaos and uncertainty that status implies, chartering agencies should assure themselves that the staff is likely to be enthusiastic, resourceful and flexible. Where the applicant plans to contract out the entire educational program, it should be able to point to contractual assurances that the staff will be competent in all these respects, and retain some right to determine competence.

Special Education

Charter schools are not generally permitted to discriminate against students with special needs and must comply with state regulations concerning special education. Assuring compliance requires several distinct areas of specialized expertise, including special education administration, diagnostics, pedagogy and law. Chartering agencies should expect applicants to describe how they will secure access to people qualified to identify potential special needs students, administer appropriate assessments, diagnose individual student's special needs, develop an individual education program to meet those needs, and how they will deliver the programs developed for special needs students.

The administration of special education can be expensive and charter applicants should demonstrate that they understand its complexity and potential cost. They should provide evidence that they are aware of special education law and have taken actions designed to improve their school's capacity to accommodate special needs students effectively and efficiently. Staff planning should call for at least some teachers and administrators to have special education certification. Curriculum should be examined for its potential application to students with special needs. Admissions procedures should support the early identification of students with special needs. Efforts should be made to estimate the likely size and nature of the special needs component of the student body, develop contingency plans for serving those students, and assess the impact of special needs populations on school finances.

While it is likely that the parents of children with acute physical or cognitive disabilities will avoid the charter school when they realize that the support their child needs can only be met with resources available to the school district, the stories of charter school operators across the country suggests that charter schools may be attractive to parents with children whose needs are less demanding or who fall immediately below the state's threshold for special needs

designation. Charter schools often adopt concepts and terminology developed by the special education community - the idea of an individualized education program, for example. They also often consciously project the image of a loving, caring, sympathetic, non-bureaucratic institution. Parents with children who meet or barely miss the special needs criteria seem to find these schools appealing. Charter applicants should demonstrate an awareness of this tendency and explain their plans for dealing with it.

Because of the social stigma attached to disabilities and the arcane nature of modern special education law and practice, it tends to be a neglected area of charter school planning. Chartering agencies should seek assurance that the experts in special education had a hand in development of the application, and that the applicant will retain the services of such experts once the school is in operation.

Waivers from State Regulations

Many charter school statutes provide a blanket waiver from all, most or some of the state education code, except for those provisions concerning assessment, testing, civil rights and student health and safety. But other charter legislation requires applicants to identify those portions of the education code that should be waived in order to operate the proposed school (again except for provisions concerning assessment, testing, civil rights and student health and safety) and particularly to implement the proposed educational program, and to justify those requests. The waivers granted often become part of the school's charter.

In many cases individual waivers will have to granted by an agency other than the one granting the charter. Chartering agencies must decide if they will consider applications before such waivers have been obtained, granting charters contingent on the waivers, or if they will consider applications only after the agencies granting waivers have rendered there decisions.

Whether or not they have the authority to grant waivers, chartering agencies need to pay careful attention to an applicant's waiver requests. Waivers not granted because they were refused - or because the applicant failed to ask for them - may have a minor effect or may make it impossible to implement the proposed program. Because waivers become part of the charter and the charter can be difficult to amend, both the applicant and the chartering agency must understand these effects before the charter takes effect. Chartering agencies should expect applicants to have a solid grasp of the proposed educational program, state regulations, and the effect of regulations on the applicant's ability

to implement the program and fulfill the school's mission. Applicants should know whether they need a waiver to carry out every element of their proposal.

Gaining an understanding of the relationships between the regulations and the educational program is an iterative and multi-disciplinary process. Lawyers and educators will need to work together very closely. Applicants should demonstrate that they have conducted such a review, but chartering agencies should be prepared to work with the applicant to assure that the proposal and waivers match before granting a charter.

School Administration

A public school is more than an educational program, it is a peculiar administrative problem. Assuming a charter is granted, the applicant will have to manage the full range of activities related to schools - including scheduling classes, assigning teachers and students, handling disciplinary matters, making decisions about children and parents, dealing with problems of student transportation and food service, and the hundreds of other issues unique to schools. Chartering agencies should expect that applicants will know how they propose to administer the school .

Someone - a "lead teacher", "headmaster," "rector", "chief education officer", or "principal"- will have to run the school building. Choosing that person will be the applicant's most important personnel decision, and perhaps the decision most important to the ultimate success of the charter school. The school's principal will be the vital link between the charter school and the rest of the public school system, the school's board and staff, the teachers and the parents, and the school and the community at large. Chartering agencies should expect applicants to identify a specific person who they propose to administer the school .

Applicants should be able to demonstrate that their proposed principal is capable of leading the new school. Because the business of schools is education, it is reasonable to expect that the principal will be an educator. Because the charter school is real operation rather than an academic study, it is reasonable to expect that the principal will have experience administering a school. To the extent that a charter school is legally, financially, and administratively independent of the school district in which it is located, it may be reasonable to expect that the principal will have experience managing a public school district or a private school. Where applicants cannot demonstrate that the proposed principal has all this expertise and capacity - and few will - they should be able to point to other

people who do, and explain how they will combine to form an effective management team.

Business Operations

Most statutes provide charter school operators with a broad set of powers necessary to control their fate as financial entities. Generally, when autonomy extends to the economic arena, charter schools may receive and disburse funds; solicit and accept gifts and grants; and receive, hold, manage and use trusts and other bequests for school purposes. They may make contracts and leases for the procurement of real property, services, equipment and supplies. They may be permitted to incur temporary debt in anticipation of the receipt of funds or even long term debt. Beyond these specific powers, many statues include provisions granting general powers "necessary or desirable" for carrying out the schools programs and other powers necessary to fulfill the charter which are "not inconsistent" with the statute itself.

The responsible exercise of this economic autonomy requires substantial business expertise. Potential charter school operators are required to demonstrate their business capacity by describing the financial or business plan for the charter school in their application. After the charter is granted, the applicant must execute that plan, start up the school, and manage an ongoing business operation.

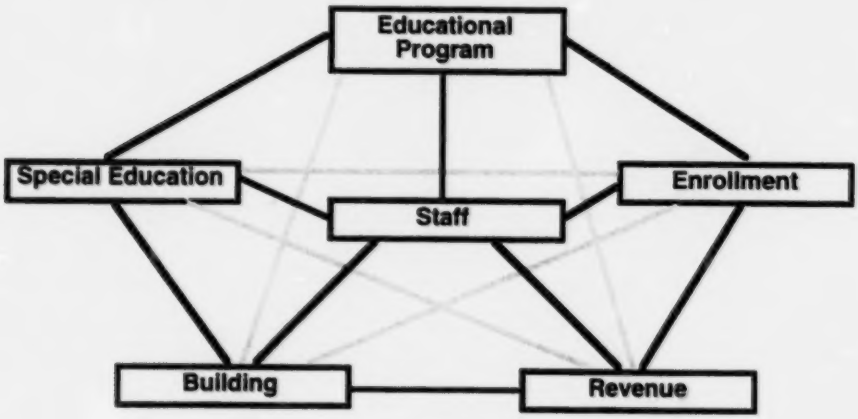
Financial Planning

Applicants should provide substantial evidence to chartering agencies that they have not approached development of the financial plan with a "compliance mentality," i.e., that it is something that was completed primarily because the law requires it be included in the application. Applicants should demonstrate that, after their vision of mission and goals, they consider the financial plan to be their most important conceptual tool. They should describe the plan in such a way as to convey an appreciation of its role as the monetary expression of their vision of the charter school and a reflection of their real priorities. They should be able to provide concrete example of how they have used the plan and the planning process to identify critical policy issues, reconcile conflicting priorities, and integrate the various components of their application. They should be able to explain how their use of financial resources will achieve their vision.

Financial planning is complex and iterative. The most important relationships are among the charter school's educational program, student enrollment,

revenues, building, special education needs, and staff. (See Fig. 3.2.) Charter agencies' expectations of applicants' descriptions of educational programs, student enrollment, special education needs, and staff were discussed above. Expectations of applicants' descriptions of the charter school's building and revenues are covered here, followed by a brief review of expectations of applicants' descriptions of how all these factors interrelate.

Fig. 3.2. Important Financial Relationships of a Charter School



The School Building

Many charter statutes permit the schools to be located in any "suitable location." Some exempt charter schools from public school facility regulations, except those pertaining to the health and safety of pupils. Most require applicants to provide the address and description of the proposed school.

Chartering agencies should expect applicants to identify facilities suitable for students and the proposed educational program, or which can be made suitable. Applicants should provide the cost of leasing or acquiring the space and copies of the relevant contracts and architectural plans; estimates of the costs of renovations and repairs prepared by qualified contractors; and any loan documents related to the real estate. Ultimately the agency must be satisfied that the facility is safe for students and suitable for the proposed educational program, that the cost of occupying the space will not jeopardize the financial stability of the school, that the repairs and renovations will be obtained at a fair price, and that there is no undue enrichment of people associated with the charter application.

Finding an appropriate facility will be one of the most difficult tasks faced by applicants starting a new school. School facilities will have to conform to zoning requirements, general and school building codes, and provide access to handicapped persons. The cost of required renovations can be substantial. Chartering agencies should expect applicants to have problems closing deals on appropriate locations for their schools.

In any given jurisdiction, there will be a limited number of potentially suitable sites. On the whole, school districts have not proved ready and willing to make buildings available, especially where the charter application has been made to another agency. (Some statutes now require school districts to give charter schools first priority in the use of surplus district properties.) Nonprofit community institutions, such as the YMCA/YWCA or Boys/Girls Club often have suitable facilities, but may not have sufficient space. Vacant parochial schools may not be located where the applicant hopes to open a school, and are likely to require renovation. Commercial buildings will almost certainly have to be renovated to create classrooms and other school facilities.

Chartering agencies should not give final approval to a charter until an applicant produces contracts demonstrating that suitable property has been secured and necessary repairs or modifications to the facility will be made. However, where an application would be approved "but for" a suitable facility, chartering agencies should consider granting a charter conditioned on the applicant's securing of a suitable facility. Such a document will prove reassuring to the financial community when the charter applicant applies for a loan to renovate or repair the facility in question. The conditional charter shows potential lenders that the proposed school has the support of educational authorities, improving the chances that a school eligible to receive public funding will open, and that revenues will be generated to repay the loan.

Locating suitable space, considering the need for and cost of renovations, determining the applicability of zoning and building codes, finding a construction loan, and negotiating the lease or and purchase of real estate, requires professional assistance. Charter school applicants should demonstrate that they have made use of commercial real estate agents, building inspectors, general contractors, real estate financiers, and attorneys with a practice in real property, and will continue to do so as the school building becomes ready for occupancy.

Revenues

Charter school statutes generally prohibit charter holders from charging tuition. Charter schools may receive and use grants, gifts, and other bequests of money,

but their principal source of revenue is likely to be payments made by the school districts or the state treasury based on enrollment. These payments are described in a formula contained in the charter school statute based on something like the average share of the education budget (not including capital, mostly building, costs) in the school district where the charter school student resides, or the average share of the state payment to the district, attributed to each student enrolled in the charter school. Many statutes also provide charter schools with a proportionate share of payments made by the state and/or federal government to the district for particular categories of students (e.g., economically disadvantaged or special needs) or particular programs.

Applicants must demonstrate that they are likely to attract the number of students necessary to raise the revenues required to cover the costs of their program. They should also demonstrate an understanding of how changes in the size of the student body would affect revenues and cause adjustments to the expenditures side of the budget. An applicant's capacity to carry out the key elements of the proposed program should not be affected by revenue shortfalls caused by normal changes in the size of the student body. Nor should important aspects of the program be dependent on grants. Indeed, chartering agencies should be wary of educational programs that cannot be implemented without additional funds. Even where grants have been secured to sustain a program element for several years, the chartering agency must consider what will happen when the grant runs out and how effective the proposed school would be without that program. Chartering agencies should feel assured that the charter school will not be tempted to pressure parents to make "donations," because revenue shortfalls jeopardize the schools ability to carry out the program.

Charter school statues may or may not establish a payment schedule for the charter school. In any case, the proposed financial plan should contain assumptions about the timing of payments that conform with applicable laws or regulations. Where the chartering agencies also disburse funds to the charter schools, they may have discretion in decisions about the timing and size of payments. In these cases, the agency should expect applicants to propose payment schedules that allow the revenues received by the school to match actual enrollment by the end of the school year, meet the school's cash needs for regular expenses throughout the calendar year, maintain reasonable reserves, and perhaps provide some opportunity for the school to earn interest income.

The Integrated Plan

The educational program, the core of charter school operations, should be designed with a potential student market in mind, including a particular kind of

student and a particular number of students. The program and the kind and number of students will generate requirements for particular materials and teachers, and possibly particular kinds of space.

Student enrollment will determine the revenues generated by the school. Those revenues must be sufficient to pay for the building space chosen as the school's location (including any renovations that may be needed to make the space suitable for use as a school, as well required furniture and equipment), and to pay the staff required to carry out the chosen educational program and operate the charter school. The building should be located somewhere safe and convenient to attract the required enrollment and desired staff.

The building, the staff, and the educational program will also have to accommodate students with special education needs. Some - but by no means all - of the additional costs of these students will be offset by revenues received for these students, so the school's general revenues must be sufficient to accommodate special education. The proposed budget must assure that the financial aspects of each of these factors add up to an economically viable charter school.

Starting and Managing the New Business Operation

When reviewing the business side of a charter application, chartering agencies should pay attention to how the applicant proposes to implement the financial plan if the charter is granted. Particularly where the applicant is starting an entirely new school, the chartering agency should expect large expenditures well before the first day of classes. Leases for school facilities and perhaps equipment (e.g., copy and fax machines, computers, telephone systems) must be negotiated and signed. Contracts may be let to install fixtures, paint classrooms and hallways, purchase books and classroom materials, and to provide for accounting, meal and payroll services. A principal, business manager, and other staff must be hired.

Because the schedule of payments to charter schools will be dictated by local circumstances and start-up expenses are bound to be quite substantial, the maintenance of tight financial controls will be essential to the school's initial economic viability. Chartering agencies should expect applicants to explain these control systems in some detail. Some one or some group, perhaps a chief financial officer, business manager, or the finance committee of the charter school's board of trustees, should control major expenditures directly so that the school stays within the proposed start up budget.

Applicants should also define the end of the start-up phase, after which financial management can be delegated to the school's administrators. But even in this case, applicants should describe financial controls. There should be some limit on the amount of money a principal can commit without the approval of someone directly responsible for finances. The authority to write, sign and record checks should be divided among several people. The school will require up to date bookkeeping services and access to an accountant. The board should periodically review the budget, and provision should be made for outside reviews or audits of the books by certified public accountants and chartering agency personnel.

Where the annual payment to a charter school is $5000 per student, a charter school of 200 students is a million dollar enterprise. The design and implementation of sound financial management procedures requires access to professionals with business management expertise. Chartering agencies should be assured that those managing the finances of such a school will have entrepreneurial experience in a business venture of comparable scope or be in very close contact with persons of such experience who take an active role in the school's financial management processes.

Governance

Most statutes make charter schools autonomous from government at least to the extent that they have the right to carry out the educational program contained in their approved charter. In many cases charter school autonomy also extends to business decisions, such as the right to hire and fire the personnel employed by the school, to employ the financial resources available to the school, and to enter into contracts for real property, goods and services for school purposes. The scope of autonomy also often extends to decision making. For example, statutes allow charter schools to design and implement their admissions process.

But the decision making autonomy of charter holders also is often constrained by statute. Charter statutes often require applicants to demonstrate how they will be accountable to parents, the public, chartering agencies and the state. In some cases applicants have some opportunity to define these relationships in the application. In others, the nature of charter school governance is defined by statute. Under some laws teachers must make up a majority of the school's board of trustees. Under others decision making procedures must be consistent with state law for nonprofit corporations. To manage a charter school, applicants must be able to demonstrate both an understanding of what may well be a complex governance structure and the capacity to operate within that structure.

Self-Governance

The precise legal character of charter schools varies by state. They may be nonprofit corporations, governed as if they were nonprofit corporations, cooperatives, municipal bodies, the bundle of rights and obligations contained in their charter or in the charter law, or their legal status may not be clear. Whatever their status, charter schools are usually governed by a board of trustees vested with the authority to decide matters within the scope of autonomy granted to charter schools by the statute under the terms of the charter. Applicants are generally required to describe a governance structure for the proposed school, including a description and method for the appointment or election of members of the board of trustees. They are also often required to describe and implement strategies for meaningful parent and community involvement. In many cases charter schools are subject to state open meetings, freedom of information, and government procurement laws.

The Board of Trustees

Charter statutes generally give applicants substantial flexibility in the make up of the board of trustees, although statutes may require teachers to make up a majority or prohibit local school board members from serving. Similarly, applicants generally are allowed to decide whether the board of trustees will reserve certain powers to itself or delegate them to an executive committee or some other charter school official, whether decisions on certain issues will require a super-majority vote, and the frequency of required board meetings. In some cases applicants may choose to formally organize the school as a nonprofit corporation under state law - in which case the structure of self-governance will be contained in legally binding articles of incorporation and by-laws and incorporated into the charter by reference in the charter application, or to treat the charter as the document that gives the school its nonprofit status - in which case the details of the proposed governance structure contained in the application will serve the same purpose as articles of incorporation and by-laws.

Applicants are also generally given substantial leeway in determining how they meet, design and implement any statutory requirement for parent and/or community involvement. The obligation might be satisfied by reserving seats on the board for parents and community members. It might be satisfied by devising a formal process for gathering data about parent and community needs and interests, and considering that data at board meetings. It might be met by designating the principal or a board member as the school official responsible for assuring parent and community access.

Whatever system of internal governance is devised, it will become part of the charter, and thus legally binding on the operational charter school - and could be difficult to change. Like the waivers from the state education code necessary to implement a proposed educational program, internal governance is something an applicant group should consider seriously before submitting an application.

Chartering agencies should expect applicants to understand the basic features of charter law relating to the form of self-governance and propose systems that conform with statutory requirements. Beyond this, applicants should be required to demonstrate how their proposed governance scheme balances most charter statutes' goal of outreach and inclusion against the need for effective control of the school, sound financial management and accountability for decisions. Applicants should be able to explain how the proposed structure supports the vision of the school and helps assure its financial stability.

Lawyers are essential to the deliberative process leading to the development of this system - they can supply important language and concepts, draw on a considerable body of practical knowledge about the governance of boards and corporations, and provide models. Chartering agencies should expect evidence that experienced lawyers have reviewed the proposed system and assurances that counsel will be retained to assure compliance with relevant law. But, the school's stakeholders will have to live with the system approved in the charter and must play important roles in the development process. Governance is too important to leave to the lawyers, and chartering agencies should be satisfied that important stakeholders understand and agree with proposed decision processes.

Open Meetings and Other Laws to Make Government Accessible

Applicants often have no choice of the rules governing the board of trustees' deliberative processes. Many, if not most charter statutes make the board of trustees subject to the state open meetings, government procurement and freedom of information requirements. The details of these statutes are beyond the scope of this guidebook, but all seek to make government decision making more accessible to the governed. A brief overview of open meeting law illustrates this point.

Open meetings legislation covers "official actions" discussed or taken by a quorum of the charter school's board of trustees. Closed meetings may be held for a limited number of reasons, including: employment issues, unless the employee in question demands an open meeting; collective bargaining strategy; discussions concerning the lease or purchase of real property; consultations with attorneys or advisors on litigation; and to maintain a confidence or privilege

protected by law. All other actions must be taken at a meeting open to the public. The public must be given at least 24 hours notice of the meeting in a newspaper of general circulation in the jurisdiction where the school is located, and a reasonable opportunity to participate. Written minutes of the meetings must be kept and made available to the public, and members of the public may record the meeting with audio or videotape. Decisions are to be made in public meetings following public discussion, and not in the course of an informal gathering of a majority of the board attending a social occasions, and certainly not in secret at a board member's home. Decisions taken at an unauthorized meeting are null, and individuals with an interest in the school may bring suit in state courts to have such decisions declared void.

After a charter is approved it may be difficult to police charter holders' compliance with the open meetings and similar requirements designed to assure open decision processes. No doubt, the board will need legal guidance to understand these rules and the constraints they place on board members, and applicants should identify counsel who will serve this function. But it is even more important that individual trustees incorporate the spirit of the open meetings law into their personal system of ethics. Chartering agencies should expect those members of an applicant group in leadership positions or likely to be members of the board of trustees to demonstrate a rudimentary understanding of these laws and an appreciation of their importance.

Management of School Operations

Charter statutes do not generally require applicants to provide detailed descriptions of how day to day operations will be managed. However, particularly where autonomy extends beyond the right to implement an approved educational program, self-governance includes description of staff responsibilities, personnel policies, financial management procedures and the like. In some of these areas, such as student discipline and the means of accommodating persons with disabilities, applicants are likely to constrained by state and federal law. In other areas, policies may be defined in the charter statute.

In most instances, such as general personnel policies or whether the school will separate traditional school administration functions from those related to financial management, descriptions are largely up to the applicant. Applicants need to remember that they will be bound by their policies and should consider the content and implications of the words they choose with some care. In some cases specialized expertise will be required to draw up these policies, but software packages with model policies, forms, and manuals are readily available.

Applicants will need to research the list of areas that will require policies and documentation, acquire models, and consult experts. Chartering agencies should expect the applicant to produce such policies, outlines of such policies, or at least an integrated plan listing the required policies, the person responsible for developing such policies, and a timetable for their completion.

Accountability to the Chartering Agency

Charter holders are accountable to the chartering agency for adherence to the terms of their charter and the requirements of their state's charter statute.

Charter holders are typically required to provide an annual report to chartering agency, other state agencies, parents of children attending the school, and the public, in a form prescribed by the chartering agency or the charter statute. The chartering agency generally enjoys a right of ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and applicable law. Based on information obtained by this means, the chartering agency is usually responsible for assuring that the school is meeting the terms of its charter. A detailed review may be required when the charter holder seeks renewal of the charter.

Chartering agencies often are given the power to revoke or decide not renew charters for material violations of the charter; a failure to meet the charter's student performance requirements or generally accepted standards of fiscal management; a violation of the charter statute or of laws the charter school has not been not specifically exempted from; and acts of fraud by the school or its board of trustees against the chartering agency. Where health or safety of a school's pupils or staff is at serious risk, the chartering agency often may take immediate action to revoke a charter.

Charter applicants generally are not required to address accountability to their chartering agency in their applications, but chartering agencies should question applicants about how they plan to meet the statutory requirements. Agencies should expect applicants to develop procedures that ensure timely and accurate annual reports, well-organized records, and the reasonable ongoing access of school board representatives.

Legal Compliance

Charter schools are typically characterized by advocates and the media as institutions that operate "free" from government regulation. The

characterization is highly misleading. Charter schools are often given waivers from many rules governing public schools, but their autonomy is more accurately described as the freedom to determine how to comply with a wide variety of state and federal laws. Statutes generally contain a provision requiring charter holders to comply with all Federal and state laws, rules and regulations pertaining to public schools, except where the charter school has received waivers under the charter act. The statutes move decision making authority from school districts to individual public schools, but individual charter holders remain accountable to chartering agencies for compliance with many if not most of the laws governing public education.

Either by explicit reference or the lack of an explicit waiver in the statute, substantial portions of the state education code and other state law apply to charter schools. Many of these laws have already been discussed in this section, including teacher certification, special education, the rules governing the applications process, admissions, facilities, and charter school governance. Additional rules and regulations are contained in many charter statutes and include: prohibitions on sectarian operations, and laws governing charter school liability and immunity, student transportation, audits, civil rights, and school employees. Chartering agencies should expect applicants to demonstrate a recognition of the need to comply with these laws, explain basic procedures for doing so, and voice an intent to secure continuing access to relevant legal expertise.

Religious Affiliation

Charter schools may or may not be explicitly prohibited from affiliation with religious institutions, but their relationships are highly constrained. Consistent with constitutional law to date, most statutes explicitly prohibit charter schools from providing any religious instruction. Some require that charter schools must be nonsectarian "in all operations." Many also prohibit the display of religious objects and symbols on the premises of the charter school, a rule that may make surplus parochial school buildings less attractive potential charter school sites.

These restrictions may not prohibit a sectarian school from converting to charter status, but they plainly alter its religious flavor. For a sectarian conversion, school operations would have to come under the full control of a nonsectarian board of trustees; religion classes would be removed from the curriculum (and perhaps even from after-school activities); admissions and employment could not be based on religious affiliation; and religious symbols would have to removed from the building, including those built into the fabric of the school structure.

The extent to which a nonsectarian charter school is permitted to draw on the resources of a religious institution is not entirely clear. The religious institution could provide a school building; clergy could teach non-religious subjects; and courses on philosophy, morals or culture might include a discussion of the affiliated religious institution's faith. Whether the school could make use of a cafeteria in the basement of the church across the street, how many members of the clergy could be part of the teaching staff, whether clergy could serve as principal or on the board of trustees, and how much of the morals course could be taken up by the faith of the affiliated religious institution is unclear.

Chartering agencies that do not completely rule out parochial school conversions or charter school affiliations with religious institutions should proceed with care. Of course applicants must demonstrate consistency with the charter statute's provisions, but the chartering agency probably also will have to make judgments about what is permissible under the Constitution and expect their decision to be tested in the courts. Before they proceed to such judgments, charter agencies must convince themselves that the applicant does not intend to create a religious school with public money. The more pervasive the connection between the charter school and the religious institution the harder it will be to satisfy this requirement.

Liability and Immunity

Some statutes treat charter schools as government agencies, with the same degree of sovereign immunity. In these cases, charter schools often may sue and be sued, but only to the same extent as other government entities. Charter applicants should demonstrate an understanding of the extent to which the school and its employees may be held financially responsible for injuries sustained by students, employees and guests under state law. In particular, they should be able to explain the extent to which the school's educational program and school management procedures risk liability; and the risk management strategies they have adopted, including the purchase of insurance. Applicants should be able to assure chartering agencies that their liability and risk management assessments are based on a coordinated discussion among the educators designing the school's curriculum and extra-curricular activities, school administrators, the school's lawyers, and the school's insurance broker.

Student Transportation

Student transportation is often a problem for charter schools. Their student bodies are drawn from across and even beyond the school district in which they

are located, their school days and school years are often longer than the rest of the district's schools, and their educational programs may involve substantial off-campus activities. Many statutes require school districts to provide transportation to the charter school "on the same terms and conditions" as to students attending schools in the district. In other cases, the applicants may choose to receive the a payment equal to each student share of the district's transportation budget. In either case, applicants are often required to describe their transportation policies.

Applicants should demonstrate an understanding of provisions in the charter statute covering transportation. They should describe a policy that conforms with the charter statute, other laws governing student transportation, and is consistent local concerns regarding student safety. Where appropriate applicants should identify proposed transportation contractors and submit the contractors' proposals, and describe the influence of its proposed transportation policy on their schools' liability and insurance.

Audits

Many statutes require charter schools to comply the provisions of state law for audits of public school operations. Applicant should demonstrate an understanding of these requirements, explain the process they will employ to generate financial reports in forms that satisfy state requirements. Where necessary in the design and implementation of such procedures, applicants should demonstrate their access to specialized expertise in government accounting.

Desegregation

Charter statutes and the courts may prohibit chartering agencies from granting charters when the proposed school would place a district in noncompliance with a desegregation order. Charter applicants should demonstrate an understanding of local desegregation orders and consent decrees operating in the district where the proposed charter school will be located and perhaps in other districts from which the applicant plans to draw any significant number of students. Where desegregation is an issue, chartering agencies must be assured that neither the intent of the applicant nor the likely effect of granting the proposed charter is to evade the law. Applicants should be able to demonstrate that they drew on relevant legal advice to help fashion an application that would not place the district in noncompliance.

Student Discipline

Charter statutes may require that applications contain a description of the proposed school's policies for suspension and expulsion. The U.S. Constitution guarantees that students enrolled in a public school cannot be deprived of their right to a place in that school without due process of law. Applicants should demonstrate an understanding of student rights, describe policies that protect those rights, and assure chartering agencies they will carry out such policies.

Employees

Depending on the statute, charter school employees may or may not be public employees. If they are not public employees, the applicant will be bound by state and federal law governing private employment relationships and should demonstrate an understanding of that law or point to the services of a competent labor attorney.

Where charter school employees are public employees, that status confers special rights on staff and creates special obligations for management. The law of public employees is well beyond the scope of this report, but may apply to charter schools in the several ways. Charter school employees may enjoy immunity from tort liability. They may be elibible for or enrolled in the state retirement and health benefits systems.

Charter school staff may be subject to special requirements that apply to public employees. Employees in direct contact with students may be required to submit a report concerning criminal history records information or clearance statements regarding child abuse. Charter applications may be required to contain these reports.

Perhaps most important, charter school employees may be permitted to organize under the state's public sector labor relations act. Depending on the charter statute, their bargaining unit may or may not be independent of any other bargaining unit, including one representing similar employees of the school district. Depending on the statute, either the charter school's board of trustees or the local school district will become the public employer required to negotiate wages, hours and working in good faith as defined by the state's public sector labor law.

Charter applicants should demonstrate an understanding of the applicable private or public sector labor laws, describe policies and procedures that conform with the requirements of those laws, and identify legal counsel for such matters.

People

To develop a charter proposal and obtain a charter, applicants require a "core team" of experienced generalists to define the vision of the proposed school's educational mission and integrate its educational program, business plan and governance structure into a coherent charter application.[9] For the "contract" or "independent" charter schools described in Section 2, the ideal group consists of at least one person with a sense of the vision, an educator, an entrepreneur, an attorney, an individual with experience writing proposals, a facilitator to manage the complex and multi-disciplinary process of developing an application, and someone with experience in local political campaigns. In the case of the "super site-based management" variety of charter schools, group needs will focus on skills in educational programming and school administration. In all cases, members of the group should have experience with "new starts," sufficient knowledge of their field both to "know what they don't know" and to "know who to ask," the ability to work well in groups, self-discipline, and a boundless optimism.

Chartering agencies also should understand that the skills required of the applicant group will change during the process of starting a charter school. They need to assure themselves that applicants will be able to make a relatively smooth transition through the several phases of charter school start-up - from the hard to define time when the school is someone's hope to the point at which knowledgeable educators and businessmen would agree it is a going concern.

The first phase is one of "team building." The potential applicant must find the right people for the core team; persuade them to participate; and "network" to identify potential sources of political, monetary, and technical support. The core team and its key supporters must build a shared vision of the school's mission, including who it will serve, how it will approach learning and teaching, and the process of self-governance. Where applicants interact with chartering agencies as they explore the charter concept, agency personnel will have an opportunity to judge the capacity of leaders to attract and motivate members of the larger applicant team. However, this phase should have passed by the time an application has been presented for review and approval. The success of the team-building phase will be reflected in the diversity of team members' skills

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[9] See Marc Dean Millot and Robin J. Lake, *So You Want to Start a Charter School?*, UW/RAND Program on Reinventing Public Education, University of Washington (Seattle), October 1996.

and expertise and in the moral and financial support of local community and business groups.

The second phase involves planning and writing the charter application. It is during this phase that the school's management structure will begin to take form. Leaders of the applicant team must manage an organizational structure dependent on consensus to accomplish its goals, yet they must propose a new management structure based on legal responsibility and some degree of role specialization that will assure the smooth operation of a real school. They must understand how to build individual commitment to the school and learn how to accept and use outside help. At the same time they must keep to deadlines, incorporate good management practices into the school's design, and make effective use of specialized expertise. This phase should also have passed by the time the application is submitted for consideration. Nevertheless, chartering agencies will probably have several opportunities to judge applicants' organizational capacity: including their ability to meet deadlines, the extent to which members of the applicant team voice a consistent vision of their school's mission, and the ability of the chartering agency to obtain timely and meaningful responses to questions and requests for additional information.

The third phase involves politics and public relations. Applicants must take the proposed school to the chartering agency, the media, and the public. They must be prepared to negotiate with government agencies and deal with political opposition. They will need to deal with the press and the local political establishment. The applicant group will need a spokesperson and a way to develop common positions on controversial matters, and the group's members will need to exercise discipline in making their own remarks. The application may go to a referendum, requiring the applicant to organize to "get out the vote. This phase coincides with the submission of a charter application, and chartering agencies will quickly learn whether the applicant is politically sophisticated, naive or ham-handed.

The fourth phase is one of management. After the charter is approved but before the school is viable, resources must be employed with great prudence. Where autonomy extends to the economic arena, someone or a small group will have to make crucial decisions about a school building, staff hires, purchases, loans, and contracting for support services. But even where autonomy is confined to implementation of an approved educational program, someone or some group will be responsible for decisions necessary to put the program in place. In either case, clear lines of authority must be established, and responsibilities delegated with care. This phase occurs after charter approval, but a chartering agency can obtain evidence of an applicants capacity by questioning those who will be

responsible for implementation about their experience and their concerns, and requesting information from former employers and associates about their management capacities.

The final phase is one of letting go. The applicant's leader and core team cannot do it all. They need to recognize their skills and expertise, and limits. Above all leaders need to be able to distinguishing those areas that can and should be controlled from those that can and should be delegated. Leaders can never give up control where decisions have a direct influence on the school's mission or financial viability. All else should be delegated. As the process continues and as the school and its staff matures more decisions can be given over to others. In some respects this phase begins when the leader recruits the first member of the applicant team. Throughout their interactions with applicants chartering agencies will come to appreciate the leaders' ability and willingness to delegate authority and give up control as circumstances dictate.

4. Charter Applicants and Other Actors in the Private Sector

The implementation of a charter school program depends heavily on the supply of qualified charter school operators and a network of supporting services provided by the private sector. This is especially true in jurisdictions where charter autonomy extends to the economic arena. This section classifies the different groups that may be eligible to apply for for charters, explains their motivations and the kinds of schools they tend to propose, and analyzes their capacity to operate charter schools. It then discusses other private sector actors that charter school applicants and charter holders may draw upon for technical support, professional expertise, and funds to augment their own capacities. [10]

The Capacity of Charter Applicants

The scope of autonomy permitted by statute, the potential impact of market forces on a charter school's financial viability, and accountability to chartering agencies require that charter applicants possess and demonstrate a potentially broad array of capabilities. Every applicant will need expertise in educational programs, school administration, and special education. Some will require access to facilities. Many will require some financial support to hire staff, buy equipment and purchase educational materials before they open their doors, and to lease or purchase and then renovate real estate. Many will need skills in business management and government operations. All must have the administrative capacity to weave specialized expertise into a viable proposal, and later to operate an effective school. All will need strong relationships with community institutions, potentially including local banks, newspapers, and government. All will need the community's good will.

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[10]This section draws upon and extends, Marc Dean Millot with Robin Lake, *Creating a Market for Public Schools: Lessons Learned from Early Implementation of the Massachusetts Charter School Statute*, DRU-xxx-IET, RAND Institute on Education and Training (Santa Monica, CA), May, 1996.

Table 4.1

Likely Capabilities of Charter Applicants

Capability	Higher Education Institutions	Community Service Organizations	Educators	Parents	Citizens	Education Management Organizations	Small Businesses	Private School Conversions	Public School Conversions
Admin.	Strong	Strong	Weak	Weak	Weak	Strong	Strong	Moderate/ Strong	Strong
Education	Strong	Moderate	Strong	Weak	Weak	Moderate/ Strong	Moderate/ Strong	Strong	Strong
Business Mgmt	Strong	Moderate	Weak	Weak	Moderate	Moderate/ Strong	Moderate/ Strong	Moderate/ Strong	Moderate/ Waek
Facilities	Strong	Weak	Weak	Weak	Weak	Weak	Weak	Strong/ Moderate	Strong
Start-Up Funds	Strong	Moderate	Weak	Weak	Weak	Strong	Strong	Moderate/ Weak	Weak
Capital Funds	Strong	Weak	Weak	Weak	Weak	Moderate	Moderate	Weak? Moderate	WEak
Govt Experience	Strong	Weak	Weak	Weak	Weak	Weak	Weak	Weak/ Moderate	Moderate
Inst. Relations	Strong	Strong	Weak	Weak	Weak	Weak	Moderate	Moderate	Moderate
Goodwill	Strong	Strong	Weak	Weak	Weak	Weak	Moderate	Strong	Strong

NOTE:

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Depending on the types of private individuals and groups permitted to hold charters - or work with charter holders, charter applicants may include institutions of higher education; community service organizations; grassroots groups of educators, parents and activist citizens; relatively big and small education businesses; and existing public and private schools seeking conversion to charter status. These groups will differ in motivation, the size and locations schools of the schools they propose, and in the types of students they hope to serve.

Higher Education

Applicants from higher education, including universities, colleges and community colleges, tend to be located in urban areas. They are attracted to the charter school concept either to convert an existing program for special categories of public school students (generally "at-risk" groups, including potential dropouts) in order to increase the funding of that program, or to extend their educational mission by creating a laboratory school (often at the elementary or middle school level) for their education department to train teachers, develop curriculum, or study the learning process. They are likely to propose schools with enrollments in the area of 200 students, focused on the populations they serve and the communities were they are located, and are not likely to show interest in long-term expansion.

As displayed in Table 1, this group is strong in every capability required of a charter school. They have school facilities and access to funds for renovation and start-up costs. They have a great deal of expertise in education, school administration, business management, and (particularly in the case of state and community colleges) government operations. They also have strong ties to the businesses, governments, and school agencies in the regions in which they are located, and a substantial reservoir of community good will.

Community Service Organizations

Community service organizations include nonprofit groups involved with at-risk teenagers and bi-lingual and low-income populations. These applicants tend to be concentrated in urban areas. They are attracted to the charter school concept as a way of extending their community service missions by integrating education with their existing health and social service operations. They will tend to propose schools with enrollments in the area of several hundred students, targeted to the particular populations they served.

Many members of this group will lack facilities and capital finance. Like the small businesses discussed below, they tend to have no special competitive advantages in knowledge of the duties of public agencies, although they often deal with state and local agencies on a regular basis. Their expertise in education and business management varies, but they have the administrative capacity to pull together a credible proposal and some of the resources necessary for start-up. The great strengths of these organizations are their relationships with local institutions and the goodwill they enjoy in the community. Because their boards of directors are often drawn from the local elite, social services organizations can rely on the support of the local institutions influenced by those members. With this support they are in a good position to acquire whatever capabilities they lack.

Grassroots Groups: Parents, Educators and Citizens

The great bulk of applicants will be "grassroots" groups of citizens, parents and educators. They will come from across the state, and are bound to be almost the only source of applicants in jurisdictions outside of the state's urban areas. While this type of applicant can consist of any combination of parents and other citizens, teachers and other educators, and are hard to categorize, the coalitions submitting applications will tend to be dominated by one of these groups.

Those led by local citizens are on a mission to change the system of local public education. Citizen coalitions often include teachers and parents, but the leaders will probably have some history of political activism in their communities - as the minority on their local school committee, failed candidates, or regular speakers at school board meetings - and see the charter school option as a way to get out from under the tyranny of the majority.

Grassroots groups led by educators and parents may have an interest in political change, but they also have more immediate motivations. They seek "a place of their own." Groups led by teachers and other educators seek a school where they can pursue their own visions of education. Groups led by parents desire a special place to send their own children, a place where they can take an active role in schooling, a place they have not found in the schools operated by their local district.

Although they may hope to draw students from neighboring towns, grassroots groups will tend not to plan to extend their enterprise beyond their local communities. They should be expected to express little interest in increasing enrollments at their proposed schools, although the parent-led groups have incentives to add grades as their children grow older.

As a whole, these groups are limited in every capability required of charter schools. They lack facilities and capital. They are more likely than not to lack adequate expertise in business management, the duties of government agencies, and - unless they are led by educators - educational programs and school administration. Their general administrative capacity is minimal. (Grassroots applicants are sometimes referred to as "kitchen table" teams because most of the work is done around one and left on it. They are sometimes referred to as "coffee klatsch" teams when they are so amateurish that they appear not be serious.) Their start-up resources consist largely of their members' "sweat equity."

While individuals in the group may have strong connections to local business, banking, government and the local school system, these personal ties generally will not translate into institutional or community support for the application. Indeed as an entity, the grassroots applicant is far more likely to have a negative or questionable standing in the community because the charter school proposal is likely to be considered an attack on perhaps the most important local institution - the school system. A negative public perception is even more likely when this attack on the local schools comes from a group consisting of individuals with a long history of dissent from the majority view. It is still more likely when the chartering agency is not the local school board and the group receives a charter. The grassroots groups that survive these disadvantages will owe their success to their leaders' strength of will, their group's committment to starting a new school, and their members' abilities to tap important resources under their personal control, including funds, contacts and expertise.

Education Management Organizations

Depending on the statute and their own business strategies the relatively large for-profit "education management organizations" (EMOs) now emerging in the nascent "education industry" may pursue charters in their own right or seek partnerships eligible applicant groups.[11] These privately financed business entities from out of state, including such firms as the Edison Project, Sabis International, Alternative Public Schools and Advantage Schools, hope to establish large numbers of high performing, fully-equipped and up-to-date public schools on a national basis. Charter school statutes offer a chance to prove the efficacy of their school designs and/or management capabilities to school officials, educators, parents and investors across the country. These firms are

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[11] The term was coined by John M. McLaughlin, Editor of *The Education Industry Report*, a monthly newsletter published in St. Cloud, Minnesota.

likely to be drawn to urban areas, and interested in opening schools encompassing grades K through 12 that would grow to enrollments of over one thousand students. They will plan to draw from the mainstream of the student body in the district where the schools would be located.

Like most charter school applicants, these businesses lack their own school buildings. They may have the capital necessary to purchase such facilities or to engage in extensive renovations of leased facilities, and plan to provide their schools with substantial infusions of equipment and technology. However, spending their own money on buildings would undermine their capacity to expand and so is not part of their business planning.

Given the relatively large size of their proposed schools and their desire for high quality facilities, the national firms generally require an existing school building, and thus, in most cases, the cooperation of local school boards. Coming from out of state they also start out lacking expertise in the operations of state and local government agencies, strong relations with local institutions, and the goodwill of local communities. As compared to other applicants, they often enjoy high levels of expertise in educational programs, school administration, business and management. However, some are still new businesses with relatively untested programs, limited experience in the management of schools, and start-up problems of their own. Nevertheless, they have the administrative capacity to put together a viable proposal and start-up budgets sufficient to hire necessary local expertise. EMOs also have the ability to build strategic alliances with local governments and community leaders.

Small Business

A second group that may seek charters or partnerships with charter applicants is small local business, built around individual entrepreneurs with prior experience serving public school systems - providing local school districts with such services as the operation of community youth programs and grant writing support. Like the national firms, this group intends to establish schools made up of students drawn from the mainstream of the student body in the district where the schools would be located. Unlike the EMOs, this group is likely to focus on local markets and schools with enrollments in the range of 300 students.

Members of the small business group lack facilities and capital finance. Although they have experience working with local school districts, they have not run schools and tend to have no special advantages in knowledge of the duties of public agencies. And while they have roots in the communities where they intend to locate their schools, the goodwill and institutional relationships they

built working with local school districts is likely to deteriorate when they decide to compete with those districts by applying to some other chartering agency. However, their administrative capacity; level of expertise in educational programs, school administration, business and management; and start-up budgets are likely to roughly equal the requirements of the small schools they hope to start.

Private School Conversions

Existing private schools can be located anywhere. Some may be parochial or religious schools, others will have no sectarian affiliation. Private schools are likely to be attracted to the charter school concept for financial reasons - government payments may be substantially higher than what the market will bear for private tuition, and by removing the barrier of private tuition school managers may believe they will be able to significantly increase enrollments. They are likely to propose schools with enrollments in line with the capacity of their current facilities, and may hope to target the kinds of students already served by their existing program.

Consistent with their financial interest in conversion, many members of this group are likely to lack substantial financial resources. They may have buildings but lack the capital required for renovation or the operating funds for adequate maintenance. Like the small businesses discussed above, they tend to have no special competitive advantages in knowledge of the duties of public agencies, although they will often deal with state and local agencies on a regular basis. Their expertise in education and business management varies but will tend to be strong. Most will have the administrative capacity to pull together a credible proposal and some of the resources necessary for start-up. Like the community nonprofits, the great strengths of these organizations are their relationships with local institutions and the goodwill they enjoy in the community. Their boards of directors may or may not be drawn from the local elite, and so the extent to which they can rely on the support of local business and financial institutions will vary.

Public School Conversions

Existing public schools seeking conversion to charter status may be located anywhere in the state. Applications will be initiated by some combination of the principal, teachers and parents, and are unlikely to proceed without their support or acquiescence. Those behind the application are likely to be attracted to the charter school concept as a means of expanding the scope of autonomy

already obtained under statutes permitting site-based management. They may also be motivated by concerns that district officials plan to close their facility to consolidate students and staff in another building. Applicants in this category are likely to propose schools with enrollments in line with the capacity of their facilities and target the kinds of students already served by their existing program.

Most members this group will lack substantial financial resources, but they also probably will not face substantial start-up costs. Existing public schools have buildings, equipment, and student bodies. They have a teaching staff, parental support and most likely a strong principal. Their expertise in business management will vary, but they probably have the administrative capacity to pull together a credible proposal. They are likely to have substantial goodwill in their local community as a result of their prior operations, but their institutional ties may vary with the socio-economic circumstances of the school's parents and the political skills of its leaders.

Conclusions

The capabilities of potential charter applicants are likely to vary. Every applicant will need some type of assistance, if only a road map for navigating the chartering process. Institutions of higher education are bound to be strong in virtually every area. Community service organizations, as well as private schools and public schools seeking conversion, will have many strengths, but some important shortfalls as well. Grassroots groups, who are likely to make up the bulk of actual applicants will probably be weak in every area. In addition, they are likely to lack the funds necessary to purchase technical assistance. Big and small business have certain strengths, but are not without weaknesses, and may need to partner with other groups.

Other Private Sector Actors: Sources of Technical Assistance, Professional Expertise and Finance

Because most applicants lack at least some of the capabilities necessary to operate a charter school, they are likely to seek outside assistance. When available, applicants will make use of the services of technical assistance organizations, charter schools associations, and professional experts. Where they require capital, applicants will turn to private sources of finance.

Non-profit Technical Assistance Organization s

Absent the intervention of private groups committed to the implementation of the charter school statute, many potential charter holders - and especially the grassroots groups - are likely to lack adequate assistance.[12] Particularly during the early implementation of the new charter statute, chartering agencies are not likely to possess the full range of expertise required to advise applicants on how to plan or operate a charter school. In many cases, both agencies and applicants will find it awkward to mix the relationship of grantor and applicant with that of advisor and client.

Because charter schools are unique and new entities created by statute, the supply of relevant professional expertise in such areas as law, accounting, insurance, real estate and even school administration in the private sector is bound to be scarce and hard to locate, and vary in quality. New charter schools lack the capacity to realize their potential economies of scale in group purchasing and shared service contracts. In addition, charter school applicants lack a "voice" in the media and find it difficult to finance their efforts to propose and start their schools. Under these circumstances, independent nonprofit organizations specifically designed to provide technical assistance in these areas have proved crucial to the implementation of charter school statutes in many states.

The primary mission of a nonprofit Technical Assistance Organization (TAO) is to support implementation of the state's charter school statute, by providing information, access to professional expertise, and direct assistance to charter applicants. In theory, the TAO's specific functions should follow from the scope of autonomy offered by the charter school statute, the needs and capabilities of applicants, the availability of appropriate support from government, and the cost and quality of support services from the private sector. In practice, the functions will depend on the financial and staff resources available to the organization, the specific skills and interests of the staff, and the capacity of the TAO's leaders to mobilize local business groups to provide professional assistance

The services provided by TAOs vary. At a minimum they generally are able to provide applicants with: a "guidebook" to the charter schools permitted by statute; a "critical friend" who will conduct an independent assessment of the

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12 This discussion draws upon, Marc Dean Millot, *A Nonprofit Technical Assistance Activity for Charter Applicants in Pennsylvania: Mission, Functions, Capabilities and Plans*, DRU-1491-IET, RAND Institute on Education and Training (Santa Monica, CA), August, 1996.

group's needs for specialized expertise and training; "basic training" on charter school fundamentals and leadership; "data banks" with important information; and a "convenient forum" to exchange ideas and concerns. Chartering agencies should understand the content of each of these services.

The Guidebook. TAO's often will create a "road map" to help applicants navigate the application process. Guidebooks can be simple brochures or regularly updated loose-leaf binders. They may contain: an overview of critical steps and deadlines; copies of the rules and regulations on charter schools issued by chartering agencies and other government agencies with jurisdiction over charter schools; advice on ways to approach each major portion of the charter application; basic guidance on issues affecting all charter schools; model documents (for applications, contracts, employment policies, etc.); a reading list of relevant materials; and resource guides on institutions and people available to provide additional assistance.

The Critical Friend. To improve their prospects with chartering agencies, many applicants welcome a serious but confidential, "low-stakes" review by TAO staff of their capacity to develop a charter application and operate a charter school. The initial audit may identify an applicant's strengths and weaknesses and serve as the basis of efforts to improve the group's capabilities. Subsequent audits may take place as the applicant proceeds through the chartering process. The critical friend function may continue after a charter is granted and implemented - through start-up and to at least the first "accounting" of the school's performance under the charter.

Basic Training and Data banks. Many TAOs offer key members of the applicant group training in basic aspects of charter schools and access to lists of institutions and individuals available to provide assistance in specific areas discussed below.

A Convenient Forum. Charter applicants need a place to meet like-minded people, exchange ideas, talk about their hopes and fears, start to build a charter schools community in the state, and find psychological support. Through their training sessions and seminars, and sometimes meetings held for the specific purpose, TAO's provide a physical center for people involved with or interested in the state's charter school movement.

Additional Services. In some cases, the TAO may also provide additional services. Most TAO's hold seminars on major issues relevant to a charter school's educational programs, business side, facility, and governance. They often will expose applicants to issues related to the political campaign to obtain a charter, although they are unlikely to champion a particular applicant. Many TAO's serve as informal brokers of firms and individuals offering services to

charter schools, linking applicants to qualified specialists in education, business, and law. A few TAO's will work to develop new knowledge essential to charter school start-up by helping professionals in education, business and law to tailor their specialized expertise to the particular needs of charter schools. Most will do at least some research on charter schools - collecting data and studies on the national experience and doing original work on charter applicants and schools in the state. In a very few cases, TAO's provide direct assistance to applicants in such areas as special education, school administration, waivers, purchasing, leadership training, and public information on charter schools.

The best TAOs will possess a broad range of capabilities. Staff members will have detailed knowledge of the charter school statute and related state and federal law. They will have an extensive set of contacts within and outside the traditional education system, and receive timely intelligence on all matters affecting charter schools. They will have contacts with charter advocates, other TAO's and researchers across the country, and thus an appreciation of issues related to the implementation of charter legislation in other states. Their leaders will have strong ties to major foundations supporting the charter concept and credibility in the eyes of state and local media. Above all else, the leaders and staff of a well-run TAO will have the trust of charter applicants and charter school operators.

Because their constituency consists of charter applicants and foundations interested in getting charter schools started, TAO's will tend to be advocates of the applicant's perspective. Nevertheless, many will not be unsympathetic to the needs of chartering agencies. Moreover, a well-run TAO will be interested in understanding the chartering agencies' perspective, if only to better serve their constituents.

For similar reasons, members of chartering agencies would be well-advised to open a dialogue with local TAOs. Leaders and staff in the TAO should serve as one important source of information, particularly on the applicants' perspective. More importantly, TAO's want the applicants they assist to receive charters. They can serve as a very efficient means of transmitting information about chartering agencies' expectations to potential applicants. Chartering agencies should be particularly interested in the content of guidebooks, training activities and seminars, and work with TAO staffs to assure consistency with agency standards.

Professional Expertise

Depending on the charter statute, charter applicants and holders may require professional support on matters involving law, accounting, banking, personnel, insurance, real estate, construction, building codes, public relations, curriculum, instructional services, evaluation and special education, to name but a few subjects. Sources of professional advice in these areas abound in the private sector, but the general expertise of a lawyer, accountant, general contractor, or special education advisor must be tailored to the unique circumstances of charter schools, as it must for any other type of client. Seemingly relevant experience elsewhere in the public or private sector needs to be considered in light of the unique and often ambiguous status of the state's charter schools. A group seeking to begin a new small business would have little trouble finding experienced professionals specializing in small business start-ups. During the early implementation of a charter program, applicants are not likely to find an analogous body of professional expertise on which to rely.

Because charter schools are new and the potential market for specialized professional services will be small and spread across the state, charter schools are not likely to develop into a distinct area of professional practice during the early implementation of a charter statute. As a consequence, the availability and quality of professional support for charter school applicants is bound to vary. Applicants from higher education will maintain much of the required expertise in-house. For-profit applicants will acquire it as a cost of doing business. In these instances, professionals will be paid to learn how to apply their expertise to the problems faced by charter schools - the quality of the expertise might vary but expertise will be available. Community service organizations and existing private schools will use their board members to provide or help locate and pay for the necessary advice. Public schools considering conversion and grassroots applicants will rely on the expertise of their members, find pro-bono assistance, or do without. In some areas, most notably special education, virtually every category of applicant is likely to do without unless compelled to do otherwise.

Charter Schools Associations

The limited resources of many charter school applicants and the shortage of high-quality professional expertise may lead some TAO's, charter advocates, charter applicants and charter holders to push for the creation of a charter schools' association. The advocates of an association will propose to pool some of the funds of charter school applicants and operators - supplemented by foundation grants and donations - to hire various professional staff, such as a lawyer or a

lobbyist, and/or to contract for group purchases of materials, supplies and equipment and insurance, payroll and special education services.

While informal associations will naturally develop out of group meetings sponsored by a TAO, several factors are likely to combine to retard the evolution of these groups into formal institutions. First, the general lack of business expertise among charter applicants prevents many from understanding how an association might substantially lower the operating costs of individual schools. Applicants and charter holders are likely to be too concerned with their own start-up problems to devote much energy to starting another institution.

More important, political factors tend to operate against the formation of an association. The leaders of many applicant groups are fiercely independent and will not submit to a process that could limit their freedom of action. In some cases, the TAO may not be prepared to cede control over its functions to an association.

Finally, the charter movement is highly fragmented - encompassing members of religious groups, voucher advocates, home schoolers, liberal activists, and mainstream educators - preventing consensus on an association's political mission. Disagreement over whether an association should stick strictly to the business side of charter school operations (i.e., lowering costs through group purchasing arrangements) or move into lobbying and advocacy, and fear that the former would inevitably lead to the latter, prevents many potential members from agreeing to proceed with any kind of formal association.

When they are formed, charter school associations may perform many of the same functions as a TAO, and thus chartering agencies have similar incentives to initiate a dialogue with these groups. Chartering agencies should judge associations by the same criteria they apply to TAOs, plus one more. Where an association claims to speak for the state's charter applicants or charter holders, agencies needs to review their bona fides with some care. Associations should be controlled by their members, their membership should be broad-based, and their agenda should be focused on issues that relate to the interests of all charter schools.

Private Finance

Where charter statutes permit the creation of new public schools, access to adequate financing will be many charter school applicants' biggest problem. Once a school begins to teach students in the classroom, some statutes do permit banks to loan charter schools funds secured by the government's regular

operating payments to charter holders. Such arrangements help stabilize an operational school's cash flow. However, most statutes do not make substantial government funds available to help charter holders open their newly approved schools. With the exception of higher education, most applicants will require outside, private support to finance the capital expense of renovating their new school facilities. And while for-profit firms and higher education can rely on their reserves to finance the costs of hiring staff and purchasing supplies and equipment before opening their new schools, most other applicants will be forced to seek outside funds.

Start-up funds - to hire and train staff, purchase materials, make down payments on equipment and pay retainers to secure professional services before the school opens - are not widely available. Capital funds for extensive renovations are virtually nonexistent. States and chartering agencies may choose to transfer state and federal funds designated for charter school start-up to charter holders, but the amounts are not likely to be sufficient for the purpose. While some applicants will prove remarkably successful in their efforts to raise funds from foundations, many more will not.

To date, banks have been reluctant to provide long term loans to charter schools - the kind of loans necessary for capital expenditures, especially for the purchase, renovation and construction of attractive and sizable facilities. Loans for a term longer than a holder's three to five year charter appear risky. The new schools have no track record for bankers to use as a baseline when assessing loan applicants as potential charter school operators. The political controversy surrounding charter schools will generate a certain political risk that many bankers will be reluctant to accept. The charter school statute could be repealed or amended in a way that will jeopardize repayment.

In addition, many applicants lack business and administrative expertise comparable to that of other potential borrowers. Most applicants lack both adequate collateral and the additional cash necessary to fund their own portion of capital costs. (Banks might lend seventy percent of the value of real property and thirty percent of the cost of renovations to a leased property; the borrower is expected to come up with the rest.) Moreover, school buildings are not attractive investments. They are expensive to build because they often must meet specialized codes, and difficult to sell. In the event of default a bank might find that the commercial building it poured so much money into to convert to a school is worth less on the market as a school than it had been as unrenovated commercial space.

Banks are also uncertain about the public relations benefits of loans to charter schools. While a bank's management might be motivated to make a loan in order to demonstrate its interest in the community, the positive image would quickly spoil if it were forced to foreclose on the school. Moreover, where community attitudes towards charter schools are mixed, a loan to a controversial school might not generate a positive public image for the bank.

The shortage of capital finance will force most applicants to smaller facilities, defer work that might make the facility more appealing to students and parents, and focus on renovations essential to meet code requirements. In most cases, chartering agencies should expect renovations to be financed out of short-term loans made in anticipation of operating revenues or as piecework paid for out of operating funds as money becomes available and after work is completed.

If chartering agencies are serious about implementing the charter statute, they should open a dialogue with private banks. Agencies need to assure lenders that schools that perform have no reason to fear for their charters and that the agency will not grant charters to applicants that lack sound proposals. They need to educate lenders about charter schools and the process the agency has devised to assure quality schools. For their part, agencies need to work with the banks to learn about their lending procedures and criteria, and use those same approaches to the maximum extent feasible when they consider the business aspects of a charter application.

5. Functions and Capabilities of a Chartering Agency

This Section describes the specific functions of a chartering agency and the capabilities required to carry them out.

Chartering Agency Functions

To fulfill the purpose of the charter act and assure the success of their own programs, agencies first need to provide public notice of their intent to implement the charter school statute. They then must review applications and approve charters. After approval, they need to monitor the operations of charter holders. In the course of establishing the first charter schools, agencies should consider providing both technical assistance to applicants and contract services to charter operators. Once schools are up and running, the charter agency will have to work with other agencies and the private sector to create a supportive operating environment. Where charter holders cannot meet performance requirements, chartering agencies have the responsibility to terminate their charters.

Inform the Public

Because the statutes generally place chartering agencies under no obligation to grant charters, perhaps the first function of a chartering agency is to provide **notice of its intent** to implement a charter school program. By means of press conferences, interviews with local media, public meetings and official correspondence, as well as legal notice in newspapers of record, the agency should make clear its plan to make use of the charter statute and the basic requirements of the law. Announcements should indicate the agency's general implementation strategy, for example to make a good faith effort to approve unsolicited charter applications, seek out partners to develop some number of new schools, or approve certain kinds of educational programs or schools for certain categories of students. Agencies should consider soliciting the opinions of the general public as well as individuals and groups they consider to be strong potential applicants about an appropriate process and criteria for charter

decisions. They also should consider encouraging the most qualified potential applicants to develop applications.

However they arrive at decisions about their charter program, chartering agencies should develop a formal **Request for Proposals (RFP)**. The RFP should explain the agency's plans for implementing the charter statute. It should describe the process the agency will follow in its decision making, including its timetable, important deadlines, decision procedures, and the rights and obligations of eligible applicants. The RFP should contain a copy of the application form and describe requirements concerning the types and detail of information expected of applicants, and the nature of evidence required to substantiate an applicant's claims and representations. The application form should contain every item of information demanded of applicants by the charter statute, and such additional items as the agency deems essential to judge the quality of the applicant's proposed school. The RFP should identify the criteria that will guide agency judgments about the people, programs and plans contained in the application. It should also contain copies of the charter school statute; rules and regulations developed to implement the statute; and the basic charter document.

Review Applications and Approve Charters

Having made the political decision to grant charters to qualified eligible applicants and notified the public of that decision through media events and the RFP, the chartering agency's next function is to review and approve charters. To perform this function, the agency needs to develop a review process, approval criteria, and the flexibility to employ the process in ways that honor the agency's public trust responsibility to children, promote the practice of due diligence by agency personnel, and are faithful to the agency's good faith decision to implement the charter statute.

The chartering **process** is a largely a matter of time management. The process must permit sufficient time for the agency to conduct a thorough investigation of applications and applicants, for applicants to make any appeals offered by state law, and for those granted charters to open their doors to students in time for the upcoming school year. In many cases a basic timetable specifying when initial agency rulings and appellate decisions must be made will be mandated by the charter statute.

To promote effective decision making, chartering agencies need to seriously consider the order, kinds and detail of information they will need during the review process and identify those requirements in the RFP. Applicants need a

clear understanding of the burden of proof they will bear. The process should give applicants informal opportunities to identify potential agency concerns and problems before they submit a formal application and find themselves in formal hearings.

Formal hearings on charter applications, including presentations by the applicant, are often required by law. In any case, they should be held regardless of the charter statute's requirements. Formal hearings enable applicants to present themselves to the public, allow for public comment on the application, and help provide a public record of agency decision making . They also give the members of chartering agencies the opportunity to assess the public image of the people behind an application and their understanding of the proposed educational program, business plan and governance structure.

Chartering **criteria** are stated or implied by the statute and informed by professional knowledge of the substantive area in question. Information the statute requires applicants to provide in their application and the scope of autonomy offered to charter holders in the charter law serve as bases for the determination of criteria. The latter constitute simple criteria involving little if any judgment. For example, applicants may be required to list their names or to agree to adhere to government auditing procedures. If these requirements are not addressed in the application, the charter cannot be approved; if the information is included, the chartering agency can consider the application.

The scope of autonomy offered by the statute implies substantive criteria for charter approval. Specific criteria of this nature have been discussed in great detail in Section 3 of this guidebook. For example, if the applicant will be responsible for implementing an approved educational program, the chartering agency ought to be convinced that the proposed program has general merit and is appropriate for the student body targeted, that available resources will be adequate, and that the proposed staff are qualified to implement the program. The extent to which the program, resources and staff are credible is a matter of judgment, but that judgment is bounded by the norms of professional educators. The criterion is whether professional educators would generally agree with the applicant. Similar criteria apply to judgments about the business plan, financial management systems, proposed facilities and construction, and compliance with relevant laws and about the staff responsible for these areas. Business people, certified public accountants, construction managers and lawyers are qualified to make these judgments, and agreement by experts in these area should constitute criteria for charter approval.

Chartering criteria are also implied by the completed application itself. The mission and the vision proposed by the applicant are benchmarks for the rest of the application. The educational program, the proposed student body, governance structures and many other elements of the application must be consistent with the mission and vision. If the applicant proposes certain educational standards, the proposed assessments must be able to demonstrate performance against those standards. An application that lacks coherence and consistency should not be approved. Similarly, where the school is an economic entity, a balance of expenses and revenues is a benchmark for the rest of the program. If some important category of expenses has been neglected in the application, the applicant must demonstrate that the program remains financially viable and educationally significant after the matter is addressed.

The agency's **flexibility** in carrying out the review and approval process and applying its criteria will strongly influence its ability to implement a charter program and fulfill the agency's intent. Until charter schools develop a substantial track record and agencies become experienced administrators of charter school programs, agency members must recognize that they are engaged in an experiment. Experiments in public education require a constant balancing of competing objectives. The review and approval process must allow the chartering agency to act in the best interests of children who will attend the proposed school as well as the taxpayers who are funding it. But the agency is not only obligated to protect today's children and taxpayers from poor charter schools. Perhaps the most important objective of charter school statutes is to improve educational performance for tomorrow's students. To advance this goal, the agency must be prepared to accept innovative proposals based on limited evidence. Thus the practice of due diligence by agency personnel involves looking for a basis to approve innovation as well as disqualifying faults.

Provide Technical Assistance to Applicants

In many cases, charter statutes permit or require chartering agencies to provide assistance to charter applicants. In an ideal world the technical assistance provided by chartering agencies to charter applicants would not go much beyond the information contained in the RFP and informal discussions with applicants discussed above. Agencies ought to help applicants understand matters of form, process and criteria. But the basic bargain of charter statutes is autonomy for accountability, and agency advice on the substantive content of applications can undermine the independence of charter holders. The acceptance of such "advice" is bound to be perceived by agency and applicant alike as something akin to a criterion for charter approval. Once an agency begins to

provide substantive advice to applicants, it is on the edge of a "slippery slope" towards a new form of central control over individual public schools.

In an ideal world most applicants would be able to submit a charter application which is fully responsive to the RFP, relevant professional expertise would be widely available to charter applicants, and TAO's would possess all the capabilities necessary to educate and support potential applicants. In an ideal world agencies would have considered every contingency and established unfailingly appropriate deadlines and procedures for charter approval. They would communicate an unambiguous set of expectations to charter applicants and be required only to judge proposals.

In practice, the world of charter review and approval is not ideal, particularly when the charter law has just been passed and the charter program is first implemented. Applicants will vary in their capacity. None will have the full set of required capabilities. Professional expertise and TAO support will vary in quality. The chartering agency will not have a flawless set of procedures and criteria, or a clear set of expectations. During this phase, knowledge relevant to the creation of an effective charter school system will be scattered among potential applicants, those forming TAO's, professionals in related disciplines, academic researchers, activists in education reform, and the members and staffs of chartering agencies. Members of chartering agencies must be alert to the slippery slope, but trying to enforce an unrealistic "arms-length" relationship between applicant and agency by withholding substantive advice during early implementation can also be detrimental to the charter program.

In practice, chartering agencies will sometimes be in the best position to render substantive technical advice to potential applicants. They may have expertise in curriculum and instructional strategies, standards and assessments, demographic information, experience in compliance with the laws charter schools may be subject to, and relationships with other agencies with jurisdiction over charter schools. Refusing to give advice in these areas of expertise may retard the development of charter schools.

Until proven effective, the charter school program is an experiment. Individual charter schools are laboratories for change requiring input from multiple sources of expertise, and open communication among these groups. Chartering agencies must be prepared to deliberately blur the distinctions between the regulator and the regulated in order to advance understanding of the charter school option. In keeping with this spirit, agencies should also be prepared to consider and accept advice on their own role and functions during this period.

Nevertheless, there are lines charter agencies should not cross. They should not write an applicant's proposal. The more substantive advice an agency supplies, the less confident it should be in the applicant's capacity to operate the proposed school. Nor should they concede their responsibility by deferring to others on important substantive matters of review, approval and oversight. Chartering agencies must remain diligent in their efforts to review the quality of applications and establish reasonable criteria for charter approval.

To advance community knowledge of charter schools, chartering agencies should embrace opportunities to exchange ideas. They should sponsor and participate in seminars and workshops on various aspects of the charter school concept. They should contract with experts to apply experience in other jurisdictions to their own particular circumstance. They should provide support to professionals interested in adapting their specialized expertise to the needs of charter schools and chartering authorities. They should consider forming partnerships with local foundations, education researchers and the business community to create the conditions necessary for a successful charter school program.

Monitor Charter School Operations

Once charters have been granted, the chartering agency's responsibilities shift from the quality of an application describing a proposed school, to the implementation of the approved plan and the performance of the operational school. The nature and extent of oversight should depend on the scope of autonomy offered to charter holders by statute, reporting and inspection requirements contained in the charter law, similar requirements charter schools may be subjected to under categorical grants and special state programs, and benchmarks established in the application. Agencies need sufficient information to provide warning of potential crises but must not unreasonably burden charter holders or deprive them of the discretion they need to implement their approved charter.

Charter operations are monitored by three means: written reports provided by charter holders; inspections conducted by chartering agencies; and investigations of informal and formal charges of violations of law. Chartering agencies need to create systems to manage each of these oversight mechanisms .

Reports

The broader the scope of autonomy offered to charter holders, the broader the probable array of reporting requirements established in the charter statute. Most statutes require charter holders to produce some form of annual report and to

submit certain other reports on forms supplied by state agencies. The principal reporting requirement for a charter school whose autonomy is limited to the implementation of an approved educational program at an existing public school will be the results of student assessments proposed in the charter application or required by the standards and testing provisions of the state education code. A new school where autonomy extends to economic decisions and government decision processes, located in a private facility, will have to produce a certificate of occupancy for the building, an annual budget, periodic reports on enrollment, and public records of significant purchases, to name but a few likely requirements. Schools that accept government funds for economically disadvantaged or special needs students will be required to meet additional reporting requirements set by the agencies that disburse the funds and oversee program implementation. Schools that hire their own staff may be required to submit teaching certificates to chartering agencies and even background checks concerning criminal records and incidents of child abuse. Moreover, schools with significant private loans may have to provide periodic financial data to commercial lenders.

Problems can arise when chartering and other education agencies with oversight responsibilities for charter schools hold charter operators to precisely the same reporting requirements as the traditional school system managed by school districts. These regulations have been developed by one large state bureaucracy to oversee many other large district bureaucracies. The regime is likely to be inappropriate for charter schools.

Charter schools are small public institutions. They lack the staff necessary to assure compliance with the myriad regulations developed for large bureaucracies. Subjecting them to such rules places them in a regulatory straight jacket, deprives them of flexibility, engenders contempt for the law, and risks massive noncompliance. Yet the people operating charter schools are just as flawed as the rest of society; and the risks of waste, fraud and abuse in charter schools are no less than for the rest of government.

Chartering agencies should consider three ways of addressing excessive bureaucracy in the oversight of charter holders. The first is to make use of the management information systems that charter holders must employ to control their school's operations Good management information systems should provide clear information on the progress a charter holder is making towards performance benchmarks described in the application and the warning desired by both competent managers and chartering agency personnel. Agencies should assure themselves that applicants have such systems before granting charters.

Chartering agencies also should insist that the information systems proposed by applicants can readily produce the reports required by law. Where the form and content of reports required by the state cannot be changed, chartering agencies should not allow applicants to get in a position where the production of these reports is onerous because they chose the wrong software. The state's inflexibility should not be compounded by the applicant's.

The second approach to reducing the effects of bureaucracy is for the chartering agency to make the best use of information charter holders are already required to produce by law or circumstances, instead of adding new government reporting requirements. For example, a chartering agency may not be the agency that transfers operating funds to charter school, nevertheless it should be able to use the same student enrollment form that charter holders produce to receive their periodic payments. Where a bank has required a school to provide regular financial reports as a condition of a loan, the chartering agency should use those reports rather than insist on a different form. Better still, chartering agencies, banks and government auditors should collaborate to develop common information requirements for charter schools.

The third approach is to streamline existing regulation. Chartering agencies should look to the underlying purpose of a regulation and tailor means of assuring compliance to the capacity of the charter school and the nature of the charter school market. For example, it is possible that the abuse of government procurement activities by charter school personnel can be prevented by regulations less complex than those used for a school district.

Inspections

Many charter statutes prohibit charter holders from interfering with inspections by chartering agencies and other government agencies whose responsibilities encompass charter schools, and give those agencies relatively unrestricted access to charter schools and their records. Inspections of physical facilities and records are a necessary component of any complete audit, whether it concerns the educational program, business operations, facility safety, or government decision processes. To assure that charter holders are complying with the terms of their charter, the law and acceptable management practices, it is necessary to spot check student records for accuracy; compare canceled checks with check registers, books of accounts, and receipts for purchases; check fire alarms; and review the publicly available records at the school for the minutes of open meetings.

Because inspections can place substantial demands on a charter school's small administrative staff and may require the presence of people who do not normally

work at the school (e.g., the board of trustee's finance committee, the treasurer, part-time bookkeepers, and off-site accountants), advance warning should be given to charter holders. As a rule, inspections probably should be scheduled months in advance. Charter holders should be made aware of the purpose of the audit, the information required, the people who should be made available to the inspection team, and the length of the inspection. Only when the quality of periodic written reports regularly provided to chartering agencies deteriorates or credible reports of serious violations come to the attention of agency personnel should surprise visits be considered.

Investigation of Reported Violations

As a rule, chartering agencies do not have substantial personnel resources to devote to the oversight of charter schools and rely on reports of potential problems from third parties. In some cases, charter statutes specify procedures for dealing with grievances with charter schools.

Where local school boards are chartering agencies, the personal contacts of members and staffs, district-wide networks of parent-teacher associations and teachers' unions, and the public's association of public school matters with school districts create numerous opportunities for people with grievances against a charter school to make their concerns known to the proper authorities. But where the chartering agency consists of a small staff located in the state capital or a regional state college, those with problems may not know where to complain and potentially serious violations may not come to the attention of agency personnel. In these cases, chartering agencies need to create more formal systems for reporting violations of charter law. Since local school districts are most likely to hear about problems in the charter schools, chartering agencies should identify points of contact for superintendents and local school boards to contact when potential violations come to their attention.

Charter schools probably should also be required to describe complaints procedures in their annual report or descriptive brochure and to list the telephone number and address of chartering agency personnel responsible for investigating complaints. In the event of an investigation, the agency should give charter holders notice of the complaints made against them, the status of investigations, an opportunity to address the matter, and the right to defend themselves before the agency makes any formal decision or takes action that jeopardizes the charter holders' interests or status.

Create a Supportive Operating Environment

Unlike private schools, charter schools do not stand alone. Charter schools may be more or less autonomous, but all exist within a larger system of public education. Regardless of the scope of their autonomy, all require that system to provide a supportive operating environment.

Where local school boards are the chartering agencies and the charter statute extends autonomy only to the implementation of an approved educational program, a charter school's success will be influenced by personnel and budget decisions made by the central office, the superintendent, and the school board. Where the charter law allows a district to expand the scope of autonomy to the economic arena, the charter school may still depend on the district for payroll services, food service, and collective bargaining. Even where the charter school is chartered by an agency other than a local school board, the school may rely on the district for transportation services, and will have important relationships with a range of state education agencies in addition to the chartering agency. Charter schools dealing with special needs students will fall under the jurisdiction of state agencies responsible for special education. Charter schools may be required to submit periodic proof of enrollment to receive payments from the state treasury. As public employers, the boards of trustees of charter schools may fall within the jurisdiction of the state public employee labor relations board for the purpose of collective bargaining and employee grievances. As public employers they may be responsible to state pension systems.

Having chartered a school, chartering agencies have an obligation to make their best efforts to see it succeed. Where they control aspects of the charter school's operating environment that are essential to its ultimate success, chartering agencies should act in good faith to support the school. Where a charter school's autonomy is confined to the educational program, school boards should assure that staff members opposed to the proposal are transferred to another school; that the children of parents opposed to the proposal are given alternatives; that staff members essential to implementation of the program are kept in place; that appropriate waivers are granted or sought from other agencies or the local unions, and that adequate resources are made available for necessary training and materials.

Where charter schools are more independent of school districts, but subject to reporting requirements to state education agencies or fall within their jurisdictions, they may rely on the local municipality for a certificate of occupancy, the local district for transportation, the state treasury for timely payments, and the state department of education for the release of funds to

support economically disadvantaged students or those with special needs. In these instances, chartering agencies must be prepared to act as advocates for charter schools, arguing for streamlined reporting requirements or explaining why charter schools should be treated differently from other institutions, and helping to devise alternative administrative approaches for the new schools.

The operating environment of charter schools with control over economic and business decisions includes the private sector, and particularly private lenders. Chartering agencies have some obligation not to obstruct charter holders efforts to obtain loans by inaction. Charter agencies should be prepared to grant contingent charters, subject to the holder obtaining an appropriate facility, to help otherwise qualified applicants obtain the financing they need to purchase and/or renovate a school building. Agencies should also be prepared to support lenders' efforts to obtain security interests in charter school payments as a condition of loans designed to assist the cash flow of operational charter schools.

Provide Contractual Services to Charter Holders

By mutual agreement of the parties or as required by the charter law, chartering agencies may also provides services to charter holders. The most likely scenario is for school districts to provide transportation, property rental, facilities management and food services to schools they charter. (Districts also may provide services to schools chartered by other agencies - transportation and food services are typical.) Other chartering agencies may also provide charter schools with services for fee, such as the percentage of state payments to charter schools that some state universities receive to monitor the operations of the schools they charter.

Where charter schools are not required to contract with chartering agencies for services, they will quickly learn whether they are receiving value for money and seek alternatives as soon as they are able. But even where the agency receives a fee determined by the charter statute, for example as a portion of the charter school payment retained for oversight or rent, its good faith promise not to get in the way of a charter school's success should dictate that the agency give the best service possible.

Terminate and Renew Charters

Where charter holders are unable to make meaningful progress towards their educational goals, schools skirt insolvency, or a pattern of serious violations of law is uncovered, statutes give chartering agencies the right to terminate the

charter, and close down the school or turn it over to new management. Chartering agencies also have the right not to renew charters when they expire. Where reasonable administrators of charter programs would agree that a school is a failure, charters should be terminated or not renewed for the good of students, to protect the taxpayers, and to send a signal to other operators.

In an ideal world the threat of termination or nonrenewal should be an effective deterrent to poor management. In the real world, they are difficult threats to carry out. Either, but particularly termination, require gross mismanagement or dishonesty before they become politically justified. Before an operator reaches that point, chartering agencies will encounter problems which are troublesome, and which in retrospect will be considered strong indicators of failure, but which at the time will seem to be an insufficient basis for raising the prospect of termination. But unless the agency has established standards of adequate performance that fall between total success and complete failure and sanctions that fall between informal criticism and formal termination, it runs the risk of ultimate disaster or - worse still - mediocre charter schools. Chartering agencies need oversight systems that establish clear warning to charter holders of a need to address specific problems before they grow to threaten the viability of the school or rob it of vitality .

At least during the early implementation of charter school programs, intermediate interventions by chartering agencies should not be confined to warnings and sanctions. Agencies should also provide direct assistance to charter holders, in effect bringing additional human and financial resources to bear on the problem at hand. This approach is consistent with the fact that, at this stage, charter programs are experiments. At first, applicants are unlikely to get everything right, and agencies do not know enough to identify and screen out problem applicants during the review and approval process. Technical assistance is needed to help the first schools become successful, to allow the experiment to continue, and to help the agency understand likely problems and warning signs for future reference. As the agency becomes more experienced and charter schools more numerous, it should be able to keep unqualified applicants out of the charter school program and rely more on intermediate sanctions, but direct assistance should never be ruled out as an option. Before a charter is terminated, chartering agencies should be able to point to a history of warnings, sanctions and assistance to address problems that ultimately led to failure.

Required Capabilities

Chartering agencies require substantial capabilities to carry out the functions discussed above. They need detailed knowledge of the charter statute and related state and federal law. They must have access to functional expertise to judge quality of applications and operations. They must appreciate issues related to the implementation of charter legislation in other states. Charter agencies need to establish relationships with other government agencies, TAOs, foundations interested in the charter concept, and the banking community. And finally, they require the trust of charter applicants and charter holders.

Detailed Knowledge of the State Charter School Statute and Related State and Federal Education Law

The starting point for all chartering agency functions is the law. The members of chartering agencies must master the various provisions of their state's charter school statute. They must have a solid understanding of those other portions of the state education code that charter schools must follow, or from which they may receive waivers. As the charter statute is implemented, agency staff need to keep abreast of: the status of amendments under discussion or enacted by the legislature and their effect on the charter program; the rule making of other administrative agencies with responsibilities under the statute, their interpretations of the new law, and the implications of those interpretations for the charter program; and the disposition of cases challenging the charter statute in the courts.

In addition, agency staff need to become familiar with important aspects of state education law relevant to charter schools and agency oversight of charter programs. These may include, but are unlikely to be confined to: the financing of public education, the teachers' retirement system, public sector labor relations, the open meetings act, and possibly even the state election code. Staff need to understand, or have ready access to people who understand, this body of legislation, administrative decisions, and case law. They should be prepared to assess this law with an eye towards the needs of the charter program, balancing the twin goals of assuring that charter holders enjoy substantial autonomy over decisions essential to the success of their approved programs and maintaining charter holders accountability for their performance to government. Agency staff may also need a general awareness of, and access to specialists in, other state law, including government contracting, liability and insurance, labor relations, building and zoning codes, and private sector finance. Where charter approval and termination are subject to state statutes governing the decisions of

administrative agencies, agency staff must have a firm grasp of the procedural and substantive requirements of that body of law

The staff of chartering agencies also should understand federal education law, including legislation creating the various categorical programs and grants, and the administrative procedures governing their distribution. They should know whether charter schools are located in jurisdictions subject to desegregation orders or signed consent decrees, and have ready access to government attorneys knowledgeable in federal civil rights laws relating to public schools.

Functional Expertise to Judge the Quality of Charter Applications and Operations

The chartering agency's capacity to implement the charter statute depends on an appropriate number of adequately trained personnel. Personnel training must match the scope of autonomy offered to charter schools by the statute. For example, if the statute permits charter holders to operate an independent economic entity, personnel engaged in the review and approval of applications must be able to determine whether the business plan is sound. (Specific expertise requirements for each area of charter autonomy have been discussed earlier in this section as well as Section 3.) Personnel numbers depend on the number of charter applicants and holders, the time allotted for administrative processes, and the amount of evidence necessary for the chartering agency to make effective decisions. Whether these personnel are full-time staff, consultants, volunteers, or supplied under contract by a firm retained to perform specific analyses or review the entire application is up to the chartering agency

Chartering agency staff also need to pay close attention to the experience of early implementation of charter legislation in their jurisdiction. Where the autonomy of charter schools extends to the economic arena, agency staff must work hard to build experience on the business side of charter school start-up. They should know which banks are prepared to work with applicants, and which loan applications were approved or rejected, and why. They should have copies of proposed and actual contracts between potential charter operators and staff, vendors and service providers. They should have copies of new charter schools' actual policy handbooks. They should keep up with applicants' efforts to obtain and renovate suitable space. They should remain well-informed of applicants' efforts to raise money to defray start-up costs. This information is important to the oversight of charter holders, but building a chartering ageny's business expertise it is at least as important to the review and approval of new charter applications.

An Appreciation of Implementation Issues in Other States

When a charter school is first signed into law, technical advice on its implementation will have to be based on the experience of other states, filtered through a charter agency's understanding of local conditions. This is not a simple matter. Charter schools are a relatively new phenomenon in the United States; key provisions of charter school statutes vary widely; and every state with charter school legislation has a unique economic, legal and political tradition. "Expert" opinions on the nature and purpose of charter schools, and appropriate standards of charter school performance, are mixed. As a result, the experience of no state, chartering agency, individual charter school, or individual involved with a charter school will serve as a perfect analogy. But there is an experience, and it should be examined and analyzed by agency staff.

Understanding the implementation problems faced by different types of charter applicants in different states, the status of issues faced by every applicant in every state, the alternative approaches to their resolution of these problems, and reviewing their relevance to implementation of the new charter law, should be of high priority. To obtain and maintain this understanding the agency must engage in outreach activities. It needs to establish strong working relationships with chartering agencies in other states. It should keep informed on the work of national education reform networks and access informal charter school groups on the Internet. It should build ties to policy analysts interested in charter schools and operating at the local, state and national levels. The agency should become involved with the various regional and national conferences sponsored by those who make up the nascent charter school movement. And it should consider sponsoring research on the problems of early implementation of charter programs.

Relationships with Other Government Agencies, TAOs, Foundations, and the Banks

Chartering agencies have the power to give applicants an opportunity to create public schools, but the contractual relationship between chartering agencies and charter holder is only one of many necessary to the success of a charter program. Under most statutes, charter schools operate within a larger environment of government regulation and private sector support. Chartering agencies need to appreciate that these relationships are important. More important, they need to take the initiative and establish their own relationships with these other public and private sector actors. Several such relationships were identified in the discussion of chartering agency functions.

Other government agencies, which may be skeptical about or unfamiliar with charter schools. The chartering agency needs to explain the objectives of charter law and its charter program, but recognize the responsibilities of its sister agencies. In the final analysis, where a good faith commitment to work the charter problem has been made by a sister agency, the development of a positive relationship depends on the chartering agency's willingness to provide staff assistance.

Technical Assistance Organizations, which represent the interests of charter applicants and others who favor the establishment of charter schools. Agencies should appreciate the TAO's role in transmitting information to applicants and the broader charter school movement. They should also appreciate the TAOs understanding of general trends in the applicant community. A working relationship with a TAO does not require that the two parties agree on matters of policy governing the charter program. It does require that the TAO believe the agency intends to implement a charter program in good faith and will listen to suggestions. Perhaps the best signs of good faith are for the agency to initiate discussions as soon as it decides to go ahead with its charter program, solicit TAO input while the program is being designed, and share appropriate information with the TAO as a matter of course.

Foundations, which can provide critical resources to fill gaps in agency and applicant capabilities, and support the formation of TAOs. Local and national foundations may favor charter programs or be waiting for a signal from the chartering agency. Once an agency has decided to proceed with a charter program, it should let its foundation supporters and others know. While designing their charter program, agencies should work with the foundations to identify particular needs that private philanthropy might fill. Foundation support for studies of implementation issues in other jurisdictions; workshops and training materials; and the development of technical expertise to support agencies review and approval of charter applications might be particular helpful.

Banks and professionals, whose support will be essential where charter schools are autonomous economic entities. Beyond announcing an intent to go ahead with a charter program, agencies should invite members of the private sector to participate in the design of the charter program and any workshops or training sessions the agency offers. The agency will need the input of business people and business people will gain from a better understanding of agency interests and concerns. It is particularly important to open a dialogue with the banks, and to work to match an applicant's business plan requirements as closely as possible to lenders' information needs.

The Trust of Potential Charter Holders

Without the trust of individual charter applicants and holders the agency cannot implement a successful charter program. Before qualified applicants will make the very substantial investments required to start a charter school, they must believe that the agency is committed to making the charter program work and will make its best efforts to create a supportive operating environment for their new schools. To develop an effective charter program during early implementation of the law, agencies must identify and address problems quickly, which requires that applicants and holders be willing to expose their faults to the agency staff.

For chartering agencies, whose responsibility for an effective charter program runs first to students and taxpayers, gaining the trust of applicants is not a matter of keeping secrets. It is fundamentally an issue of empathy and good faith. Starting a new charter school is enormously difficult, and particularly for grassroots applicants lacking adequate resources and facing local political opposition. The pressures on these educational entrepreneurs are very real, and can strain their marriages, friendships and business relationships. The ability to weather crises will spell the difference between failure and success for many of the first charter schools. Applicants and holders need to know that a chartering agency wants the charter program to succeed, and will make its best efforts to work with a charter holder genuinely trying to create an effective school. Agency staff will require strong interpersonal skills.

6. Advice for Chartering Agencies

1. Undertake a serious study of the requirements before deciding to implement a charter program.

Charter programs are complex and problematic. They require a political commitment to see the program through inevitable crises, deal with agencies and groups opposed to charter schools, turn away unqualified applicants who may have political clout, work with problem charter holders, and close down schools that may have a political constituency. Most chartering agencies will need to acquire new types of expertise. All will require new management systems for this program. Improvements in student performance may not be demonstrable for several years after program initiation. The eventual payoffs may be tremendous, but as yet this assertion by advocates is unproved. Chartering agencies should approach the charter option with an open mind, but must take a hard look at the costs and risks of a program, and evidence of success elsewhere, before determining that they should proceed.

2. Do not implement a charter program unless you are prepared to make your best efforts to see it succeed.

Having decided to implement a charter program, chartering agencies need to make it clear to the private individuals and groups that may hold charters that they will do everything reasonable that is necessary to help charter schools succeed. Chartering agencies must be prepared to change their own practices to accommodate the needs of the schools they charter and to provide required support where the scope of charter schools autonomy is narrow. They must be committed to providing charter schools with value for the services charter schools purchase. They must be ready to act as an advocate on behalf of charter schools with other government agencies and the private sector.

3. Invest in expertise equal to the scope of autonomy the charter statute offers to charter holders.

Charter school law grants charter holders the right to implement an approved educational program, may give them control of the schools economic and human

resources, and may establish charter schools as independent agencies of government. Charter applicants provide evidence of their capacity to exercise this autonomy in their application. Charter holders demonstrate their capacity as school operators. To determine whether the evidence provided by applicants and school operations under a charter are sufficient requires that a chartering agency have the substantive capacity necessary to such judgments. Expertise in educational programming, school administration, business management, financial controls, and legal compliance need not reside with the agency staff, but the agency needs more than casual access to such expertise.

4. Be prepared to render technical advice.

Chartering agencies should want their programs to succeed and charter holders to have access to substantial relevant expertise. In an ideal world the regulator would not also tell charter applicants and operators how to write their applications or operate their schools. In the real world, particularly during early implementation, agencies must be prepared to give substantive advice.

5. Remember that it is easier to weed out problem applicants than to deal with problem charter holders.

Chartering agencies have the right to terminate the charters of ineffective schools, and should devise intermediate means of intervention in failing schools. Some schools will have difficulties, and during the early implementation of a charter program at least some of these schools will be difficult to identify in the application phase. Nevertheless, chartering agencies should learn enough about the experience of other chartering agencies and the capabilities required of charter applicants under their own charter statute to build a list of "warning indicators," suggesting potentially problematic schools.

6. When deciding whether to grant a charter, give equal weight to people, the program and the implementation plan.

A functioning charter school, likely to improve student performance, requires people committed to the vision and competent to execute their proposal, a plausible program of curriculum, instruction, assessment, management and governance, and a pragmatic plan for moving the proposed school from paper to reality. The people, the program and the plan are equally essential. Without a program, there is no way to know whether "good people" are appropriate for the

proposed school. If their is no plan for the implementation of a "good program," the transition from proposal to an operational school is bound to be chaotic. A "good plan" means little without the right people to implement it. In the end, the right people will surmount most difficulties, but charter school programs should not be about designing and building planes even while they are being flown. Chartering agencies are under some obligation to know in advance of granting a charter that the proposed educational program will improve student performance.

7. Recognize that due diligence requires looking for reasons to take a chance as well as reasons to disqualify an applicant.

Charter school programs are an experiment and individual charter schools laboratories for educational improvement. Charter holders, charter school staffs and even chartering agencies are to some extent the subjects of this experiment. Never the less, the principal subjects are children, whose years in grade for the duration of this experiment will be irretrievable. But children are also intended to be the principal beneficiaries of charter schools, and to improve their educational opportunities charter agencies must be prepared to take calculated risks.

8. Give applicants as much autonomy as they can handle but not much more.

Depending on the charter statute in their state, chartering agencies may or may not have control or influence over the scope of autonomy granted to individual schools. Where they have no control, agencies must assure themselves that applicants are truly qualified to exercise their autonomy responsibly. And under all charter statutes, agencies must be convinced that an applicant's educational program is sound and the proposed staff can implement it. But where they have control, chartering agencies should not hesitate to offer applicants with weakness in business, legal compliance, or some other aspect of school operations, the option of improving the application or reducing the scope of autonomy under the charter. There may be an argument for giving applicants slightly more than they can handle now to push them not to become complacent, but a chartering agency's responsibilities to children, taxpayers and society at large should prevent it from giving power and authority where it cannot be handled responsibly.

9. Create an oversight process with intermediate standards of performance and sanctions.

Agencies require formal means of intervention in problem schools short of charter termination. They need means of measuring a charter holder's progress on implementation of the charter program and achievement of educational and other goals specified in the charter. These may be contained in the application itself or regulations promulgated by the agency. Either way, applicants need fair warning about agency expectations of performance and a clear understanding of the consequences of failure.

10. Create strong working relationships with other actors in the charter school system.

The success of a charter program depends on the efforts of many individuals and groups in the public and private sector. A chartering agency should work hard to shape those groups into a system. A pool of qualified charter holders must be identified and nurtured; technical assistance organizations, foundations, professionals and bankers need the right information on agency attitudes and decision criteria; and the cooperation of other government agencies is essential. Agencies should not wait for these groups to arrive at the door, they should seek them out and begin a dialogue.